

EXHIBIT K

Page 1

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
4 Civil Action: 1:20-cv-00221

5 -----x
6 MARJORIE PHILLIPS,
7 Plaintiff,
8 -against-
9 THE FASHION INSTITUTE OF
10 TECHNOLOGY, MARY DAVIS and MARILYN
11 BARTON,
12 Defendants.
13 -----x

14 September 9, 2021
15 10:28 a.m.

16 - VOLUME 1 -
17

18 Remote Deposition of MARJORIE
19 PHILLIPS, the Plaintiff in the
20 above-entitled action, located in New
21 York, New York, taken via Zoom before
22 Dawn Matera, a Shorthand Reporter and
23 Notary Public of the State of New York.
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| <p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 4 THE COCHRAN FIRM Attorneys for Plaintiff 5 55 Broadway, 23rd Floor New York, New York 10006 6 By: DEREK SELLS, ESQ. 7 MINA MALIK, ESQ. 8 9 NIXON PEABODY LLP Attorneys for Defendant FIT 10 50 Jericho Quadrangle Suite 300 Jericho, New York 11753-2728 11 By: DAVID A. TAUSTER, ESQ. dtauster@nixonpeabody.com 12 ROSE A. NANKERVIS, ESQ. rnankervis@nixonpeabody.com 13 14 15 SARETSKY KATZ & DRANOFF LLP Attorneys for Mary Davis 16 475 Park Avenue South 26th Floor 17 New York, New York 10016 18 By: ERIC DRANOFF, ESQ. 19 edranoff@skdlp.com 20 21 MENKEN SIMPSON & ROZGER LLP Attorneys for Marilyn Barton 22 80 Pine Street 33rd Floor New York, New York 10005 23 By: BRUCE MENKEN, ESQ. bmenken@nyemployeelaw.com 24 25</p> | <p style="text-align: right;">Page 4</p> <p>1 2 STIPULATIONS 3 IT IS HEREBY STIPULATED AND 4 AGREED, by and among counsel for the 5 respective parties hereto, that the 6 filing, sealing and certification of the 7 within deposition shall be and the same 8 are hereby waived; 9 IT IS FURTHER STIPULATED AND 10 AGREED that all objections, except as to 11 form of the question, shall be reserved 12 to the time of the trial; 13 IT IS FURTHER STIPULATED AND 14 AGREED that the within deposition may be 15 signed before any Notary Public with the 16 same force and effect as if signed and 17 sworn to before the Court. 18 * * * 19 20 21 22 23 24 25</p> |
| <p style="text-align: right;">Page 3</p> <p>1 2 APPEARANCES : (Continued) 3 4 Also Present: 5 CRAIG JONES, Concierge 6 Mary Davis, (Morning session.) 7 ~oOo~ 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">Page 5</p> <p>1 MARJORIE PHILLIPS 2 MARJORIE PHILLIPS, having 3 been first duly sworn by Dawn Matera, a 4 Notary Public, was examined and testified 5 as follows: 6 EXAMINATION BY MR. TAUSTER: 7 Q. Good morning, Ms. Phillips. 8 A. Good morning. 9 Q. My name is David Tauster and I 10 represent Fashion Institute of Technology 11 in connection with this lawsuit. During 12 this deposition I will probably refer to 13 Fashion Institute of Technology as FIT, 14 do you understand? 15 A. Yes. 16 Q. Very good. I am going to ask 17 you a series of questions regarding your 18 employment with and claims against FIT. 19 If you don't understand any of my 20 questions, please let me know and I will 21 rephrase or have the court reporter read 22 the question back. 23 I am going to ask that you keep 24 all of your answers verbal, because the 25 court reporter can't take down any</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 MARJORIE PHILLIPS</p> <p>2 physical movements such as nods or shrugs</p> <p>3 of the shoulder. Your attorney might</p> <p>4 object to some of my questions today.</p> <p>5 You're still required to answer my</p> <p>6 question, notwithstanding that objection,</p> <p>7 unless your attorney specifically tells</p> <p>8 you not to answer the question. Do you</p> <p>9 understand?</p> <p>10 A. Yes.</p> <p>11 Q. And again, that's the response</p> <p>12 and keeping everything verbal.</p> <p>13 A. Okay.</p> <p>14 Q. Very good. Now, I do not want</p> <p>15 you to guess at answers to my questions</p> <p>16 today. However, where appropriate, I am</p> <p>17 entitled to your best estimate of</p> <p>18 something. Do you understand the</p> <p>19 difference?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Very good. Now, if you</p> <p>22 have any doubts about your ability to</p> <p>23 answer a question, or if you don't</p> <p>24 understand a question, please ask for</p> <p>25 clarification. If you answer a question,</p> | <p style="text-align: right;">Page 8</p> <p>1 MARJORIE PHILLIPS</p> <p>2 instructions?</p> <p>3 A. Yes.</p> <p>4 Q. Have you taken any medication</p> <p>5 in the last 24 hours that would affect</p> <p>6 your memory or your ability to answer my</p> <p>7 questions truthfully?</p> <p>8 A. No.</p> <p>9 Q. Have you taken any drugs or</p> <p>10 illegal substances in the last 24 hours?</p> <p>11 A. No.</p> <p>12 Q. Have you consumed any alcoholic</p> <p>13 beverages in the last 24 hours?</p> <p>14 A. No.</p> <p>15 Q. Do you understand that you have</p> <p>16 taken an oath today to tell the truth</p> <p>17 under penalty of perjury?</p> <p>18 A. Yes.</p> <p>19 Q. Where are you today?</p> <p>20 A. I am at home in my bedroom.</p> <p>21 One of my bedrooms.</p> <p>22 Q. Okay. Is there anyone else</p> <p>23 here?</p> <p>24 A. My son is here.</p> <p>25 Q. Okay. Is he in the room with</p> |
| <p style="text-align: right;">Page 7</p> <p>1 MARJORIE PHILLIPS</p> <p>2 I am going to assume that you understood</p> <p>3 it, okay?</p> <p>4 A. Okay.</p> <p>5 Q. Very good. So during your</p> <p>6 testimony today you cannot have any other</p> <p>7 computer screens open or documents in</p> <p>8 your presence while testifying unless</p> <p>9 prior to answering the question you</p> <p>10 inform me that you're looking at a</p> <p>11 document and disclose what that document</p> <p>12 is.</p> <p>13 A. Okay.</p> <p>14 Q. You're also not permitted to</p> <p>15 communicate in any fashion with your</p> <p>16 attorney, whether through text, e-mail or</p> <p>17 other electronic means, while you are</p> <p>18 testifying.</p> <p>19 Now, any time you need a break,</p> <p>20 please let me know. The one thing I am</p> <p>21 going to ask is that we do not take any</p> <p>22 breaks while there are questions pending</p> <p>23 as you are not permitted to take a break</p> <p>24 until you have finished answering the</p> <p>25 questions. Do you understand my</p> | <p style="text-align: right;">Page 9</p> <p>1 MARJORIE PHILLIPS</p> <p>2 you?</p> <p>3 A. No, he is not.</p> <p>4 Q. Okay. Have you told him not to</p> <p>5 enter the room with you for the duration</p> <p>6 of the deposition?</p> <p>7 A. I didn't tell him, but I think</p> <p>8 he knows that.</p> <p>9 Q. If he enters the room, we will</p> <p>10 probably just break for a second just so</p> <p>11 you can shoo him out, for lack of a</p> <p>12 better term.</p> <p>13 A. Okay. It froze.</p> <p>14 Q. Yeah, yeah, I think we both</p> <p>15 froze. We're good now?</p> <p>16 A. Yeah. There is a little bit of</p> <p>17 a delay. Can you hear me clearly?</p> <p>18 Q. I can hear you. It looks like</p> <p>19 your connection may not be the strongest,</p> <p>20 but we will muddle through.</p> <p>21 A. Okay.</p> <p>22 Q. Are you in a room where you can</p> <p>23 be free from disturbance for the duration</p> <p>24 of the deposition?</p> <p>25 A. Yes.</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. And again, unless you are</p> <p>3 interrupted unintentionally by your son,</p> <p>4 would you remain in the room for the</p> <p>5 duration of the deposition?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. What type of device are</p> <p>8 you using for today's deposition?</p> <p>9 A. My Mac laptop.</p> <p>10 Q. Okay.</p> <p>11 A. Desktop, desktop.</p> <p>12 Q. Do you have any documents open</p> <p>13 on your desktop screen?</p> <p>14 A. No, I do not.</p> <p>15 Q. Do you have any programs open</p> <p>16 on your desktop other than the Zoom</p> <p>17 window?</p> <p>18 A. No, I do not.</p> <p>19 Q. Do you have your web browser</p> <p>20 open?</p> <p>21 A. No, I don't have anything open</p> <p>22 at all.</p> <p>23 Q. Do you have any physical</p> <p>24 documents in front of you on the table?</p> <p>25 A. I do. I do.</p> | <p style="text-align: right;">Page 12</p> <p>1 MARJORIE PHILLIPS</p> <p>2 you have any other physical documents on</p> <p>3 the table in front of you?</p> <p>4 A. I have the, what do you call</p> <p>5 it, the actual, the complaint, the</p> <p>6 complaint.</p> <p>7 Q. Okay. So to make it simple, I</p> <p>8 am going to ask you to just clear all</p> <p>9 documents off of your desk and put them</p> <p>10 off to the side.</p> <p>11 A. Okay.</p> <p>12 Q. If we need you to look at the</p> <p>13 document, Craig will share it up on the</p> <p>14 screen.</p> <p>15 A. All right.</p> <p>16 Q. Very good. Do you have a cell</p> <p>17 phone or a mobile device?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Is it on?</p> <p>20 A. Yes.</p> <p>21 Q. Can I ask you to turn it off?</p> <p>22 A. Okay.</p> <p>23 (Witness complies.)</p> <p>24 A. Okay, it's off.</p> <p>25 Q. Are you aware that you can't</p> |
| <p style="text-align: right;">Page 11</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. What do you have in front of</p> <p>3 you?</p> <p>4 A. Some notes. So I can't have my</p> <p>5 notes out, right?</p> <p>6 Q. No, I am going to ask you to</p> <p>7 pick those notes up, put them on the</p> <p>8 couch or someplace else.</p> <p>9 A. Okay, okay.</p> <p>10 MR. TAUSTER: And Derek, I will</p> <p>11 call for production of those notes, to</p> <p>12 the extent they haven't already been</p> <p>13 produced.</p> <p>14 MR. SELLS: I'll take it under</p> <p>15 advisement.</p> <p>16 Q. Those notes are out of view?</p> <p>17 A. Yes.</p> <p>18 Q. You will not refer to those</p> <p>19 notes during the duration of the</p> <p>20 deposition.</p> <p>21 A. Okay.</p> <p>22 Q. Okay. And so other than --</p> <p>23 sorry?</p> <p>24 A. Just for my memory.</p> <p>25 Q. And other than those notes, do</p> | <p style="text-align: right;">Page 13</p> <p>1 MARJORIE PHILLIPS</p> <p>2 answer any calls or check any electronic</p> <p>3 messages during today's deposition?</p> <p>4 A. I wasn't aware, but okay.</p> <p>5 Q. Do you have a smart watch that</p> <p>6 receives notifications from your phone or</p> <p>7 computer?</p> <p>8 A. No, I do not.</p> <p>9 Q. Do you have a television in the</p> <p>10 room?</p> <p>11 A. I do, yes.</p> <p>12 Q. Is it off?</p> <p>13 A. Yes, it is.</p> <p>14 Q. I am just going to ask you to</p> <p>15 please keep the television off for the</p> <p>16 duration of the deposition.</p> <p>17 A. Okay.</p> <p>18 Q. And I am just going to ask you</p> <p>19 to try to keep your voice up a little</p> <p>20 bit, just to make sure the court reporter</p> <p>21 can hear you.</p> <p>22 A. I am wondering, let me make</p> <p>23 sure it's up. Is this any better?</p> <p>24 Q. You are generally fine, look,</p> <p>25 it's natural conversation, sometimes</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 MARJORIE PHILLIPS</p> <p>2 voice modulation fluctuates, I'm going to</p> <p>3 ask you to project as much as you can.</p> <p>4 A. Okay.</p> <p>5 Q. If we run into any issues, I</p> <p>6 may ask you to get some headphones.</p> <p>7 MR. TAUSTER: Dawn, just make</p> <p>8 sure you say if you can't hear</p> <p>9 anything.</p> <p>10 THE REPORTER: Sure.</p> <p>11 Q. Did you do anything to prepare</p> <p>12 for this deposition?</p> <p>13 A. I spoke to my attorney.</p> <p>14 Q. How many times did you speak to</p> <p>15 your attorney?</p> <p>16 A. Once.</p> <p>17 Q. And for approximately how long?</p> <p>18 A. About three hours.</p> <p>19 Q. Did you review any documents to</p> <p>20 prepare for this deposition?</p> <p>21 A. Yes.</p> <p>22 Q. What documents did you review?</p> <p>23 MR. SELLS: Objection.</p> <p>24 Objection. Hold on. Objection. Is</p> <p>25 this to refresh her recollection,</p> | <p style="text-align: right;">Page 16</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did you speak to any of your</p> <p>3 doctors or other medical providers about</p> <p>4 this deposition?</p> <p>5 A. Yes, I spoke with my therapist.</p> <p>6 Q. And who is your therapist?</p> <p>7 A. Dr. Cynthia Barnes.</p> <p>8 Q. What did you speak with</p> <p>9 Dr. Barnes about this deposition?</p> <p>10 A. When I was informed what the</p> <p>11 date was going to be, I told her what the</p> <p>12 date was going to be, the date and the</p> <p>13 time, and I told her, you know, that the</p> <p>14 preparation for the deposition would be</p> <p>15 the day before. And that was pretty much</p> <p>16 it, because I didn't know -- I don't know</p> <p>17 what to expect, so. That was kind of it.</p> <p>18 Q. That's our goal. We're going</p> <p>19 to try to keep you on your toes today.</p> <p>20 So other than those logistical</p> <p>21 issues about the timing of the deposition</p> <p>22 and the timing of the preparation, did</p> <p>23 you discuss anything else with Dr. Barnes</p> <p>24 about the deposition?</p> <p>25 A. No.</p> |
| <p style="text-align: right;">Page 15</p> <p>1 MARJORIE PHILLIPS</p> <p>2 David, because that's really the only</p> <p>3 way you should be able to get that.</p> <p>4 MR. TAUSTER: Well, let me</p> <p>5 rephrase the question.</p> <p>6 Q. Other than in the presence of</p> <p>7 your attorney, did you review any</p> <p>8 documents to prepare for this deposition?</p> <p>9 A. No, I did not.</p> <p>10 Q. Other than your attorney, did</p> <p>11 you speak with anyone else about this</p> <p>12 deposition?</p> <p>13 A. Just -- yes, just to say I have</p> <p>14 a deposition tomorrow.</p> <p>15 Q. Who did you speak with?</p> <p>16 A. My family, my sister and my</p> <p>17 son.</p> <p>18 Q. Other than advising them that</p> <p>19 you had this deposition upcoming, did you</p> <p>20 speak with them about anything else?</p> <p>21 A. No.</p> <p>22 Q. Did you speak with any current</p> <p>23 or former employees of FIT about this</p> <p>24 deposition?</p> <p>25 A. No, I did not.</p> | <p style="text-align: right;">Page 17</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. And you testified earlier that</p> <p>3 you spoke with your sister and your son</p> <p>4 about the deposition, correct?</p> <p>5 A. Yes.</p> <p>6 Q. So I may have already asked</p> <p>7 this. Other than that this deposition</p> <p>8 was occurring, did you speak with them</p> <p>9 about anything else about the deposition?</p> <p>10 A. No.</p> <p>11 Q. Aside from this matter, have</p> <p>12 you ever brought a lawsuit against any of</p> <p>13 your employers?</p> <p>14 A. No, I have not.</p> <p>15 Q. Have you ever been a party to a</p> <p>16 lawsuit before?</p> <p>17 A. No, I have not.</p> <p>18 Q. Have you ever been a witness in</p> <p>19 a lawsuit?</p> <p>20 A. No, I have not.</p> <p>21 Q. Have you ever given a</p> <p>22 deposition before?</p> <p>23 A. I think I did. It was so long</p> <p>24 ago that I don't even remember what it</p> <p>25 was for, who it was for. I just remember</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that it was a deposition. It had to be</p> <p>3 maybe 30 years ago, so I don't remember.</p> <p>4 Q. So like you said, other than</p> <p>5 the mere fact that you were deposed, you</p> <p>6 remember nothing else about that matter?</p> <p>7 A. Right, right.</p> <p>8 Q. Have you ever filed a complaint</p> <p>9 with the New York State Department of</p> <p>10 Labor?</p> <p>11 A. I believe so. I'm not sure.</p> <p>12 Q. What would that complaint have</p> <p>13 been about?</p> <p>14 A. This case.</p> <p>15 Q. And you said you're not sure if</p> <p>16 you filed a complaint with the Department</p> <p>17 of Labor?</p> <p>18 A. That's right, I'm not sure.</p> <p>19 MR. TAUSTER: Derek, to the</p> <p>20 extent she did file a complaint with</p> <p>21 the New York Department of Labor,</p> <p>22 we're going to call for production of</p> <p>23 that complaint.</p> <p>24 MR. SELLS: Yes, I will take it</p> <p>25 under advisement.</p> | <p style="text-align: right;">Page 20</p> <p>1 MARJORIE PHILLIPS</p> <p>2 may have. And if I did, it would have</p> <p>3 been from this case in July of 2019.</p> <p>4 Q. Got it. So other than in</p> <p>5 connection with this matter, have you</p> <p>6 ever filed a complaint with the New York</p> <p>7 City Commission on Human Rights?</p> <p>8 A. No, I have not.</p> <p>9 Q. Have you ever filed a charge of</p> <p>10 discrimination with the New York State</p> <p>11 Equal Employment Opportunity Commission?</p> <p>12 A. Yes.</p> <p>13 Q. When did you file that charge?</p> <p>14 A. July of 2019 regarding this</p> <p>15 case.</p> <p>16 Q. Other than in connection with</p> <p>17 this matter, have you ever filed a charge</p> <p>18 with the Equal Employment Opportunity</p> <p>19 Commission?</p> <p>20 A. No, I have not.</p> <p>21 MR. TAUSTER: Derek, and just to</p> <p>22 piggyback on earlier, just because,</p> <p>23 just to make sure we have all of the</p> <p>24 complaints, to the extent there was</p> <p>25 some other complaint filed with the</p> |
| <p style="text-align: right;">Page 19</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. TAUSTER: Okay.</p> <p>3 Q. How about, have you ever filed</p> <p>4 a complaint with the United States</p> <p>5 Department of Labor?</p> <p>6 A. No, I did not.</p> <p>7 Q. Have you ever filed a complaint</p> <p>8 with the New York State Division of Human</p> <p>9 Rights?</p> <p>10 A. Yes. Yes.</p> <p>11 Q. When did you file that</p> <p>12 complaint?</p> <p>13 A. I think it was in July of 2019</p> <p>14 regarding this case.</p> <p>15 Q. Understood. Other than in</p> <p>16 connection with this matter, have you</p> <p>17 ever filed a complaint with the New York</p> <p>18 State Division of Human Rights?</p> <p>19 A. No.</p> <p>20 Q. Okay.</p> <p>21 A. No.</p> <p>22 Q. Have you ever filed a complaint</p> <p>23 with the New York City Commission on</p> <p>24 Human Rights?</p> <p>25 A. I may have, I don't know. I</p> | <p style="text-align: right;">Page 21</p> <p>1 MARJORIE PHILLIPS</p> <p>2 division or the city commission, we're</p> <p>3 going to call for production of that.</p> <p>4 MR. SELLS: Understood.</p> <p>5 Q. So other than what we discussed</p> <p>6 thus far, have you ever filed anything</p> <p>7 with any administrative or governmental</p> <p>8 agency regarding your employment with any</p> <p>9 employer?</p> <p>10 A. Aside from this case, no, I</p> <p>11 have not.</p> <p>12 Q. We are going to get to where we</p> <p>13 start introducing the exhibits.</p> <p>14 MR. TAUSTER: Derek, do you want</p> <p>15 to take five to see if we can set up</p> <p>16 your account really quick and we can</p> <p>17 be off to the races.</p> <p>18 MR. SELLS: Yes, that would be</p> <p>19 great. Thank you.</p> <p>20 MR. TAUSTER: So we'll jump back</p> <p>21 on the record at 10:36.</p> <p>22 (Off the record.)</p> <p>23 Q. Ms. Phillips, during this last</p> <p>24 break, did you review any documents?</p> <p>25 A. No, I didn't.</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. And did you speak with anyone</p> <p>3 about this deposition?</p> <p>4 A. No, I didn't.</p> <p>5 MR. TAUSTER: Craig, can you put</p> <p>6 up FIT Exhibit 1.</p> <p>7 (Exhibit 1, Complaint, was so</p> <p>8 marked for identification, as of this</p> <p>9 date.)</p> <p>10 Q. Ms. Phillips, do you recognize</p> <p>11 this document?</p> <p>12 A. Yes.</p> <p>13 Q. What is this document?</p> <p>14 A. It's the complaint.</p> <p>15 Q. And did you bring a lawsuit</p> <p>16 against FIT, Mary Davis and Marilyn</p> <p>17 Barton in 2020?</p> <p>18 A. Yes.</p> <p>19 Q. Does this complaint set forth</p> <p>20 your claims in the lawsuit?</p> <p>21 A. Yes.</p> <p>22 Q. And does the complaint set</p> <p>23 forth all of your claims and allegations</p> <p>24 against FIT?</p> <p>25 A. Can you repeat the question?</p> | <p style="text-align: right;">Page 24</p> <p>1 MARJORIE PHILLIPS</p> <p>2 like to join in, Mr. Sells, because we</p> <p>3 are operating under the federal rules,</p> <p>4 speaking objections are not permitted.</p> <p>5 We are limited to form objections, so</p> <p>6 if we can just proceed so we don't</p> <p>7 have to have colloquy during this</p> <p>8 deposition.</p> <p>9 Q. Ms. Phillips --</p> <p>10 MR. SELLS: Let me just say</p> <p>11 this, just to be clear, I do have the</p> <p>12 right to clarify questions, all right?</p> <p>13 And that was not a clear question.</p> <p>14 That's what I did.</p> <p>15 MR. TAUSTER: Mr. Sells, Derek,</p> <p>16 that's not how this is going to go.</p> <p>17 If you want to ask her questions at</p> <p>18 the end to clean anything up, that's</p> <p>19 your right. You don't get to do</p> <p>20 speaking objections while we're asking</p> <p>21 questions during a federal deposition.</p> <p>22 MR. SELLS: It wasn't a speaking</p> <p>23 objection.</p> <p>24 MR. TAUSTER: Then it was your</p> <p>25 testifying. We don't need commentary</p> |
| <p style="text-align: right;">Page 23</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Does this complaint contain all</p> <p>3 of your claims and allegations against</p> <p>4 FIT?</p> <p>5 MR. SELLS: Objection,</p> <p>6 objection. David, obviously this</p> <p>7 complaint was filed in January of</p> <p>8 2020. We are now in September of</p> <p>9 2021. So when you ask that question,</p> <p>10 I don't want it to be misleading, all</p> <p>11 right, because obviously Ms. Phillips</p> <p>12 is still working at FIT and her claims</p> <p>13 are still ongoing. So just, you know,</p> <p>14 clarify your question and make it</p> <p>15 clear that as of that date, those were</p> <p>16 her claims, okay?</p> <p>17 MR. TAUSTER: Okay, Derek,</p> <p>18 Derek, we don't need speaking</p> <p>19 objections here. If you can object,</p> <p>20 she can answer. I think the question</p> <p>21 is perfectly clear and if Ms. Phillips</p> <p>22 has any additional claims against FIT,</p> <p>23 she could have answered no and</p> <p>24 specified those claims.</p> <p>25 MR. DRANOFF: And I would just</p> | <p style="text-align: right;">Page 25</p> <p>1 MARJORIE PHILLIPS</p> <p>2 from attorneys. Let's stick to</p> <p>3 questioning. If you need to clean</p> <p>4 anything up at the end, that's your</p> <p>5 right, you're more than welcome to do</p> <p>6 so.</p> <p>7 Q. Ms. Phillips, just to circle</p> <p>8 back to my last question. Do you have</p> <p>9 any claims against FIT that are not</p> <p>10 contained in the complaint that you filed</p> <p>11 in January of 2020?</p> <p>12 A. Yes.</p> <p>13 Q. What are those claims?</p> <p>14 A. Since January of 2020 a lot has</p> <p>15 happened, more has happened since January</p> <p>16 of 2020.</p> <p>17 Q. What has happened since January</p> <p>18 of 2020?</p> <p>19 A. Well, for example, there was</p> <p>20 the fashion show that took place. I came</p> <p>21 back from a leave of absence. I returned</p> <p>22 to the office in November, and January,</p> <p>23 February, March, things happened after my</p> <p>24 return which was after the lawsuit. So I</p> <p>25 was put in an office space in 236. And</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 MARJORIE PHILLIPS</p> <p>2 my colleagues, I don't know if it's in</p> <p>3 the lawsuit, I think it may be, but I</p> <p>4 just want to say, because it happened</p> <p>5 more, my colleagues have felt ostracized</p> <p>6 and isolated because of the lawsuit. So</p> <p>7 by the time there was a newspaper</p> <p>8 article, New York Times, that came out,</p> <p>9 after January of 2020, that added to my</p> <p>10 stress, added to my isolation, even</p> <p>11 though we were still in the office for a</p> <p>12 short time, it added to my isolation from</p> <p>13 my colleagues.</p> <p>14 Q. When do you mean when you say</p> <p>15 that your colleagues have felt ostracized</p> <p>16 by the lawsuit?</p> <p>17 A. Not them. Me. Not them.</p> <p>18 Q. And how has FIT caused that?</p> <p>19 A. How has FIT caused that?</p> <p>20 Q. Let me rephrase. Do you</p> <p>21 attribute being ostracized by the lawsuit</p> <p>22 to FIT?</p> <p>23 A. I attribute being ostracized by</p> <p>24 the behavior of the dean at the time,</p> <p>25 Mary Davis, and Marilyn Barton, my</p> | <p style="text-align: right;">Page 28</p> <p>1 MARJORIE PHILLIPS</p> <p>2 the Affirmative Action case.</p> <p>3 Q. I'm not asking about before the</p> <p>4 Affirmative Action case, I am</p> <p>5 specifically referring to the filing of</p> <p>6 the lawsuit -- withdrawn.</p> <p>7 I am specifically referring to</p> <p>8 what you're saying changed with respect</p> <p>9 to Dean Davis after you filed the</p> <p>10 lawsuit.</p> <p>11 A. Okay.</p> <p>12 Q. So again, focusing solely on</p> <p>13 after you filed the lawsuit, what changed</p> <p>14 about your working relationship with Dean</p> <p>15 Davis?</p> <p>16 A. Our communication changed. We</p> <p>17 no longer communicated in the way that we</p> <p>18 did prior to the lawsuit. She was cold.</p> <p>19 Dean Davis was cold. Dean Davis did not</p> <p>20 speak to me or interact with me in the</p> <p>21 way that she had prior to the lawsuit.</p> <p>22 Q. Okay. What about, did you</p> <p>23 testify that your relationship with</p> <p>24 Marilyn Barton changed after the lawsuit</p> <p>25 was filed?</p> |
| <p style="text-align: right;">Page 27</p> <p>1 MARJORIE PHILLIPS</p> <p>2 co-worker, my colleague. I attribute it</p> <p>3 to that.</p> <p>4 Q. Is that the behavior alleged in</p> <p>5 the complaint or is that behavior alleged</p> <p>6 after the lawsuit?</p> <p>7 A. Before and after.</p> <p>8 Q. What did Dean Davis do after</p> <p>9 the lawsuit was filed?</p> <p>10 A. She changed. She was cold.</p> <p>11 Our relationship, working relationship</p> <p>12 changed. I no longer had the interaction</p> <p>13 with her that I had had before the</p> <p>14 lawsuit. She distanced herself from me</p> <p>15 and there was no more interaction in the</p> <p>16 way that we had before the lawsuit. Both</p> <p>17 her and Marilyn.</p> <p>18 Q. So is it fair to say then that</p> <p>19 you had a positive working relationship</p> <p>20 with Dean Davis prior to January 2020?</p> <p>21 A. I thought so.</p> <p>22 Q. And is it fair to say that Dean</p> <p>23 Davis was not cold towards you prior to</p> <p>24 January of 2020?</p> <p>25 A. Before the lawsuit and before</p> | <p style="text-align: right;">Page 29</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. How did your relationship with</p> <p>4 Marilyn Barton change after the lawsuit</p> <p>5 was filed?</p> <p>6 A. She didn't say anything to me</p> <p>7 at all. There was nothing. There was no</p> <p>8 interaction at all, unless there were</p> <p>9 e-mails that went between us. Other than</p> <p>10 that, she said nothing to me at all.</p> <p>11 Q. So what was your relationship</p> <p>12 like before you filed the lawsuit?</p> <p>13 A. Before I filed the lawsuit, we</p> <p>14 were all in the office together. Then</p> <p>15 there was a much different relationship.</p> <p>16 The relationship changed when I filed the</p> <p>17 lawsuit.</p> <p>18 Q. But what do you mean you were</p> <p>19 all in the office together before you</p> <p>20 filed the lawsuit?</p> <p>21 A. Prior to the lawsuit -- prior</p> <p>22 to -- the incident happened in 2019. I</p> <p>23 took a leave of absence. And when I</p> <p>24 returned to the office, I had been</p> <p>25 reassigned to another office space. I</p> |

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| <p style="text-align: right;">Page 30</p> <p>1 MARJORIE PHILLIPS</p> <p>2 was told that Marilyn Barton was not</p> <p>3 going to be terminated and that I was</p> <p>4 going to be moved to another space. That</p> <p>5 she would remain in the same space. She</p> <p>6 would not be terminated. That nothing</p> <p>7 happened with her. And that I was the</p> <p>8 one who was going to be placed somewhere</p> <p>9 else, permanently, and I was, I felt</p> <p>10 discarded, I felt discarded.</p> <p>11 Q. Okay. But Ms. Phillips, just</p> <p>12 to be clear, those are allegations that</p> <p>13 you're asserting in this lawsuit,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So again focusing</p> <p>17 specifically on things that happened</p> <p>18 after you filed the lawsuit, what changed</p> <p>19 about your relationship with Ms. Barton?</p> <p>20 A. She continued to be distant and</p> <p>21 no communication. So I guess, yes, it's</p> <p>22 in the lawsuit, yes.</p> <p>23 Q. So circling back to my original</p> <p>24 question, are you alleging that FIT</p> <p>25 engaged in any form of discrimination or</p> | <p style="text-align: right;">Page 32</p> <p>1 MARJORIE PHILLIPS</p> <p>2 answering the question. The question</p> <p>3 was how did FIT discriminate against</p> <p>4 her after she filed the lawsuit.</p> <p>5 She's responding by making allegations</p> <p>6 that were included in the lawsuit. So</p> <p>7 I want her to focus on the question.</p> <p>8 MR. SELLS: No, no, no, no,</p> <p>9 she's not doing that, David. You're</p> <p>10 cutting her off. That's the way you</p> <p>11 want to hear it. I am sure that's the</p> <p>12 way you want to hear it. The fact of</p> <p>13 the matter is FIT, FIT kept her in</p> <p>14 that space prior to the lawsuit.</p> <p>15 MR. TAUSTER: You're testifying.</p> <p>16 MR. SELLS: That's what she</p> <p>17 testified to and you cut her off,</p> <p>18 David, she said she remained in the</p> <p>19 space.</p> <p>20 MR. TAUSTER: No, she said FIT</p> <p>21 moved her space.</p> <p>22 Dawn, can you roll back and read</p> <p>23 back Ms. Phillips' answer.</p> <p>24 (Record read.)</p> <p>25 Q. Okay. So again, Ms.</p> |
| <p style="text-align: right;">Page 31</p> <p>1 MARJORIE PHILLIPS</p> <p>2 retaliation against you after you filed</p> <p>3 the lawsuit?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. How did FIT discriminate</p> <p>6 against you after you filed this lawsuit?</p> <p>7 A. After I filed the lawsuit, I</p> <p>8 was sent to another space. My office was</p> <p>9 changed. I was no longer in the space</p> <p>10 that I had been for the past seven, eight</p> <p>11 years.</p> <p>12 Q. Ms. Phillips, again, that's an</p> <p>13 allegation that you included in the</p> <p>14 complaint, correct?</p> <p>15 A. Okay.</p> <p>16 MR. SELLS: Excuse me, excuse</p> <p>17 me, David, you cut off Ms. Phillips in</p> <p>18 the middle of an answer. Please let</p> <p>19 her finish her answer, okay? She was</p> <p>20 about to finish her answer.</p> <p>21 MR. TAUSTER: I thought she had</p> <p>22 stopped speaking, but regardless,</p> <p>23 she's not answering the question.</p> <p>24 MR. SELLS: You cut her off.</p> <p>25 MR. TAUSTER: She's not</p> | <p style="text-align: right;">Page 33</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Phillips --</p> <p>3 MR. SELLS: Okay. So then you</p> <p>4 cut her off, David, she's still</p> <p>5 answering the question. FIT never</p> <p>6 moved her back.</p> <p>7 MR. TAUSTER: Stop testifying,</p> <p>8 Derek.</p> <p>9 MR. SELLS: I'm not testifying.</p> <p>10 MR. TAUSTER: You're not the</p> <p>11 witness here.</p> <p>12 MR. SELLS: You're cutting her</p> <p>13 off.</p> <p>14 MR. TAUSTER: Strike all of</p> <p>15 that, please. Strike all of that.</p> <p>16 MR. SELLS: You cut her off.</p> <p>17 Let's take a break, take a break.</p> <p>18 MR. TAUSTER: We're not taking a</p> <p>19 break.</p> <p>20 MR. SELLS: I am taking a break.</p> <p>21 I don't like this, David, I don't like</p> <p>22 this.</p> <p>23 MR. TAUSTER: Derek, Derek --</p> <p>24 MR. SELLS: You're cutting off</p> <p>25 my witness. You're cutting her off.</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 MARJORIE PHILLIPS</p> <p>2 No, you're cutting her off. So let's</p> <p>3 just take a five-minute break.</p> <p>4 MR. TAUSTER: We're not taking a</p> <p>5 five-minute break, we are on the</p> <p>6 record. Okay.</p> <p>7 Ms. Phillips, I don't know why</p> <p>8 your attorney left the deposition</p> <p>9 room, we are on the record. Is Mina</p> <p>10 still in the room?</p> <p>11 MR. DRANOFF: Can the reporter</p> <p>12 read back the last question --</p> <p>13 MS. MALIK: I am, but I am on a</p> <p>14 call.</p> <p>15 MR. TAUSTER: Okay. Well, maybe</p> <p>16 you should tell Mr. Sells he shouldn't</p> <p>17 have just stormed out of the</p> <p>18 deposition room when there was a</p> <p>19 question pending.</p> <p>20 MS. MALIK: I'm sorry, I didn't</p> <p>21 hear you?</p> <p>22 MR. TAUSTER: Why are you in the</p> <p>23 room if you are on a call?</p> <p>24 MS. MALIK: Excuse me, who are</p> <p>25 you talking to?</p> | <p style="text-align: right;">Page 36</p> <p>1 MARJORIE PHILLIPS</p> <p>2 off. Why are you cutting her off?</p> <p>3 She wants to add more to her answer,</p> <p>4 David, let her answer.</p> <p>5 MR. TAUSTER: So don't tell me</p> <p>6 that she's done answering. She should</p> <p>7 just keep talking.</p> <p>8 MR. SELLS: No, you cut her off.</p> <p>9 MR. TAUSTER: I didn't cut her</p> <p>10 off.</p> <p>11 MR. SELLS: Okay. So you did</p> <p>12 cut her off.</p> <p>13 Q. Ms. Phillips, just testify.</p> <p>14 MR. TAUSTER: Derek, just focus</p> <p>15 on saying objection, okay?</p> <p>16 MR. SELLS: I am not -- if</p> <p>17 you're going to cut her off, I am</p> <p>18 going to say she should be allowed to</p> <p>19 answer a question. You did not let</p> <p>20 her answer the question.</p> <p>21 Q. Ms. Phillips, please continue.</p> <p>22 MR. SELLS: Hold on. May the</p> <p>23 record reflect that you just did</p> <p>24 something with your fingers, David,</p> <p>25 what was that that you just did with</p> |
| <p style="text-align: right;">Page 35</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. TAUSTER: I was talking to</p> <p>3 you. Are you representing Ms.</p> <p>4 Phillips in this deposition or not?</p> <p>5 Mr. Sells just stormed out of the</p> <p>6 room. I'm not quite sure where we're</p> <p>7 at here right now. Nobody else agreed</p> <p>8 to a break and he just left the room.</p> <p>9 MS. MALIK: Okay. Let me see if</p> <p>10 I can chat with him.</p> <p>11 MR. TAUSTER: Let's go off the</p> <p>12 record for a minute.</p> <p>13 (Off the record.)</p> <p>14 Q. Ms. Phillips, I am going to ask</p> <p>15 my last question another way. Did FIT</p> <p>16 change your seating location after you</p> <p>17 filed this lawsuit?</p> <p>18 A. The lawsuit was filed in</p> <p>19 January of 2020. They changed my seating</p> <p>20 in November of 2019. I would like to add</p> <p>21 more to the answer if I may.</p> <p>22 Q. Well, I will ask you another</p> <p>23 question --</p> <p>24 MR. SELLS: No, no. Hold on.</p> <p>25 That's the whole point. You cut her</p> | <p style="text-align: right;">Page 37</p> <p>1 MARJORIE PHILLIPS</p> <p>2 your fingers?</p> <p>3 MR. TAUSTER: You keep talking,</p> <p>4 let's move forward.</p> <p>5 MR. SELLS: Come on now, that's</p> <p>6 not --</p> <p>7 MR. TAUSTER: Yeah, I know, come</p> <p>8 on.</p> <p>9 MR. SELLS: That's not right.</p> <p>10 MS. MALIK: Very disrespectful.</p> <p>11 MR. TAUSTER: Is that your</p> <p>12 associate who is taking a call while</p> <p>13 we are in this deposition?</p> <p>14 MR. SELLS: That's my senior</p> <p>15 partner. Do you want to denigrate</p> <p>16 her, David?</p> <p>17 MS. MALIK: Mr. Tauster, you</p> <p>18 don't know me, do not denigrate me on</p> <p>19 the record or off the record. Do not</p> <p>20 yell at me and do not try and bully me</p> <p>21 like you did earlier when you yelled</p> <p>22 at me.</p> <p>23 MR. TAUSTER: I didn't yell at</p> <p>24 you.</p> <p>25 MS. MALIK: Yes, you did.</p> |

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| <p style="text-align: right;">Page 38</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. SELLS: We're taking a</p> <p>3 break.</p> <p>4 MR. TAUSTER: We're not taking a</p> <p>5 break.</p> <p>6 MR. SELLS: Yes, we are.</p> <p>7 MR. TAUSTER: Ms. Phillips, we</p> <p>8 are on the record.</p> <p>9 (Off the record.)</p> <p>10 MS. MALIK: Marjorie, can you</p> <p>11 turn your camera off since we're not</p> <p>12 in the room right now.</p> <p>13 MR. TAUSTER: It's time to come</p> <p>14 back into the room. This deposition</p> <p>15 is continuing.</p> <p>16 (Off the record.)</p> <p>17 MR. TAUSTER: Time to go back on</p> <p>18 the record, everybody.</p> <p>19 (Off the record.)</p> <p>20 MR. TAUSTER: Can you just read</p> <p>21 back the last question and Ms.</p> <p>22 Phillips' answer.</p> <p>23 (Record read.)</p> <p>24 Q. Ms. Phillips, what would you</p> <p>25 like to add to that answer?</p> | <p style="text-align: right;">Page 40</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Ms. Phillips, did FIT take any</p> <p>3 action after the fashion show that you</p> <p>4 just mentioned?</p> <p>5 A. Take any action with whom?</p> <p>6 Q. With regard to -- are you aware</p> <p>7 if FIT took any steps or any personnel</p> <p>8 measures in response to the fashion show?</p> <p>9 A. Yes, they did.</p> <p>10 Q. What measures did they take?</p> <p>11 A. There was an investigation of</p> <p>12 the entire fashion show by an outside</p> <p>13 counsel.</p> <p>14 Q. Are you aware if there were any</p> <p>15 personnel decisions made as a result of</p> <p>16 the fashion show?</p> <p>17 A. Mary Davis and Kyle Farmer were</p> <p>18 put on administrative leave. Not right</p> <p>19 away, but they were put on administrative</p> <p>20 leave and ultimately fired.</p> <p>21 Q. How long after the fashion show</p> <p>22 were they put on administrative leave?</p> <p>23 A. I'm not sure. I'm not sure.</p> <p>24 Q. Do you think it was within a</p> <p>25 month?</p> |
| <p style="text-align: right;">Page 39</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I would like to add that I had</p> <p>3 requested, after January of 2020, I had</p> <p>4 requested, there was a vacant office in</p> <p>5 the space where I was. I was out in the</p> <p>6 open. I was the only one who didn't have</p> <p>7 an office space. And I asked the dean if</p> <p>8 I could occupy that vacant office space.</p> <p>9 There was actually two vacant offices and</p> <p>10 she told me no. She told me she</p> <p>11 couldn't. She just said no. She said</p> <p>12 that that space was being held for</p> <p>13 someone in the future. So that happened</p> <p>14 after the lawsuit.</p> <p>15 And then referring back to the</p> <p>16 fashion show, that racist fashion show</p> <p>17 that happened after the lawsuit. I felt</p> <p>18 from the fashion show, I felt unheard. I</p> <p>19 felt unheard because it happened after I</p> <p>20 had already made these complaints about</p> <p>21 discrimination and retaliation within the</p> <p>22 School of Graduate Studies, Fashion</p> <p>23 Institute of Technology, and then there</p> <p>24 was this racist fashion show that</p> <p>25 confirmed what I had already told them.</p> | <p style="text-align: right;">Page 41</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Maybe within two months.</p> <p>3 Q. Okay. Other than conducting an</p> <p>4 investigation and terminating Dean Davis</p> <p>5 and Mr. Farmer, what other actions do you</p> <p>6 think FIT should have taken?</p> <p>7 A. After the fashion show?</p> <p>8 Q. Yes.</p> <p>9 A. I think that they should have</p> <p>10 spoken with me and possibly others in the</p> <p>11 School of Graduate Studies, considering</p> <p>12 that I had filed a lawsuit against these</p> <p>13 very people, these very same people. So</p> <p>14 I think that they should have spoken with</p> <p>15 me, if not others, in the School of</p> <p>16 Graduate Studies.</p> <p>17 Q. Are you certain that they did</p> <p>18 not speak to anyone else in the School of</p> <p>19 Graduate Studies?</p> <p>20 A. I am not certain.</p> <p>21 Q. You're not certain?</p> <p>22 A. I am not certain.</p> <p>23 Q. When you filed your internal</p> <p>24 Affirmative Action complaint, were you</p> <p>25 interviewed by FIT?</p> |

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| <p style="text-align: right;">Page 42</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. When I filed my Affirmative</p> <p>3 Action, yes.</p> <p>4 Q. So why do you think FIT should</p> <p>5 have spoken with you after the fashion</p> <p>6 show?</p> <p>7 A. Because my Affirmative Action</p> <p>8 complaint included those very people.</p> <p>9 Q. Did you have any additional</p> <p>10 allegations concerning those very people</p> <p>11 that were not already included in the</p> <p>12 Affirmative Action complaint?</p> <p>13 A. Yes, yes, I believe I did.</p> <p>14 Q. Okay. What allegations?</p> <p>15 A. I was in a class prior to the</p> <p>16 fashion show, much prior to the fashion</p> <p>17 show. I had observed a class that Kyle</p> <p>18 Farmer had with his students, I just was</p> <p>19 an observer, and one of the students made</p> <p>20 a comment about something that sounded</p> <p>21 racist and political. Both. Sounded</p> <p>22 racist and political. And Kyle responded</p> <p>23 to the student by telling them that they</p> <p>24 shouldn't make comments like that and</p> <p>25 they need to be careful, because it could</p> | <p style="text-align: right;">Page 44</p> <p>1 MARJORIE PHILLIPS</p> <p>2 and the request for a vacant office, do</p> <p>3 you have any other allegations against</p> <p>4 FIT that are not included in the</p> <p>5 complaint?</p> <p>6 A. Yes. FIT never spoke to me</p> <p>7 about the incident when they promised me</p> <p>8 that I would be part of the</p> <p>9 investigation, and I was not a part of</p> <p>10 the investigation. So they did an entire</p> <p>11 investigation after the incident, within</p> <p>12 a day or two after I was assured that I</p> <p>13 would be called in and they would speak</p> <p>14 to me. And they never did. The whole</p> <p>15 investigation went through and I was</p> <p>16 never involved.</p> <p>17 Q. What incident are you referring</p> <p>18 to?</p> <p>19 A. The incident in May of 2019.</p> <p>20 Q. So again, apologies if this is</p> <p>21 not clear. I am only referring to</p> <p>22 conduct that occurred after January of</p> <p>23 2020.</p> <p>24 A. Okay.</p> <p>25 Q. So again with respect solely to</p> |
| <p style="text-align: right;">Page 43</p> <p>1 MARJORIE PHILLIPS</p> <p>2 be seen as being politically incorrect</p> <p>3 and sort of put them on notice as to what</p> <p>4 was politically correct.</p> <p>5 Q. Did you report this incident to</p> <p>6 anyone at FIT?</p> <p>7 A. Report, no, I did not.</p> <p>8 Q. Did you speak with the student</p> <p>9 about this incident?</p> <p>10 A. No, I did not.</p> <p>11 Q. Do you have any reason to</p> <p>12 believe that anyone at FIT was aware of</p> <p>13 this incident?</p> <p>14 A. Do I have any idea that anyone</p> <p>15 at FIT was aware of it besides myself and</p> <p>16 the people who are in the room?</p> <p>17 Q. Yes.</p> <p>18 A. I have no knowledge of that.</p> <p>19 Q. Okay. So other than this</p> <p>20 incident, were there any other claims</p> <p>21 that you believe you could have added</p> <p>22 regarding Mr. Farmer or Dean Davis?</p> <p>23 A. Not that I can think of right</p> <p>24 now.</p> <p>25 Q. So other than the fashion show</p> | <p style="text-align: right;">Page 45</p> <p>1 MARJORIE PHILLIPS</p> <p>2 conduct after January 17th, 2020, other</p> <p>3 than the fashion show and your request to</p> <p>4 move into a vacant office, do you have</p> <p>5 any additional allegations against FIT?</p> <p>6 MR. SELLS: Objection. David,</p> <p>7 your question is not clear, again.</p> <p>8 Because when you talked about</p> <p>9 allegations in the complaint, as you</p> <p>10 know, we have ongoing, it's an</p> <p>11 ongoing --</p> <p>12 MR. TAUSTER: Derek, you are now</p> <p>13 testifying.</p> <p>14 MR. SELLS: I am not.</p> <p>15 MR. TAUSTER: You stated your</p> <p>16 objection.</p> <p>17 MR. SELLS: It's in our</p> <p>18 complaint. It's in our complaint that</p> <p>19 this is an ongoing matter, it's</p> <p>20 ongoing. So it's not fair for you to</p> <p>21 say other than.</p> <p>22 MR. TAUSTER: It is fair.</p> <p>23 MR. SELLS: It's not fair for</p> <p>24 you to say that. Objection.</p> <p>25 MR. TAUSTER: Derek, this is a</p> |

12 (Pages 42 - 45)

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| <p style="text-align: right;">Page 46</p> <p>1 MARJORIE PHILLIPS</p> <p>2 deposition. It's not trial. I ask</p> <p>3 the questions, she answers the</p> <p>4 questions. If you have an objection</p> <p>5 as to form, you state it, we move on,</p> <p>6 okay?</p> <p>7 MR. SELLS: I just did, I just</p> <p>8 stated it.</p> <p>9 MR. TAUSTER: You don't have to</p> <p>10 testify on her behalf.</p> <p>11 Q. In any event --</p> <p>12 MR. TAUSTER: Craig, can you</p> <p>13 throw up FIT Exhibit 2.</p> <p>14 (Exhibit 2, Interrogatory</p> <p>15 responses, was so marked for</p> <p>16 identification, as of this date.)</p> <p>17 MR. JONES: Introducing Exhibit</p> <p>18 2. For those of you in Egnyte,</p> <p>19 Exhibit 2 is now there. Exhibit 2 is</p> <p>20 now on the screen.</p> <p>21 MR. TAUSTER: Very good. And I</p> <p>22 have control? Excellent.</p> <p>23 Q. Ms. Phillips, did FIT send you</p> <p>24 a series of questions in connection with</p> <p>25 this lawsuit?</p> | <p style="text-align: right;">Page 48</p> <p>1 MARJORIE PHILLIPS</p> <p>2 document. There you go. That's you</p> <p>3 controlling it.</p> <p>4 THE WITNESS: Okay.</p> <p>5 (Witness reviews document.)</p> <p>6 A. So your question was do my</p> <p>7 answers appear in the document, correct?</p> <p>8 Q. Essentially, yes.</p> <p>9 A. Yes.</p> <p>10 Q. Are these responses true and</p> <p>11 accurate to the best of your knowledge?</p> <p>12 A. Yes.</p> <p>13 Q. I am just going to ask, since</p> <p>14 you have the document, can you scroll to</p> <p>15 the very last page.</p> <p>16 Is that your signature?</p> <p>17 A. Yes.</p> <p>18 Q. So it's fair to say that you</p> <p>19 verified under penalty of perjury that</p> <p>20 those responses are true?</p> <p>21 A. Yes.</p> <p>22 Q. Did you speak with anyone to</p> <p>23 help you gather information to respond to</p> <p>24 these questions?</p> <p>25 A. My attorney Midwin Charles.</p> |
| <p style="text-align: right;">Page 47</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. And did you provide responses</p> <p>4 to those questions?</p> <p>5 A. Yes.</p> <p>6 Q. Do you see the document on the</p> <p>7 screen?</p> <p>8 A. Yes.</p> <p>9 Q. Does this document contain your</p> <p>10 answers to those questions?</p> <p>11 A. I have to see more of the</p> <p>12 document.</p> <p>13 MR. TAUSTER: Craig, can you</p> <p>14 give Ms. Phillips access so she can</p> <p>15 scroll through?</p> <p>16 MR. JONES: Sure.</p> <p>17 Ms. Phillips?</p> <p>18 THE WITNESS: Yes.</p> <p>19 MR. JONES: You probably got a</p> <p>20 pop-up on your screen saying I am</p> <p>21 passing the remote control.</p> <p>22 THE WITNESS: Saying?</p> <p>23 MR. JONES: I am giving you</p> <p>24 control of my screen. If you try</p> <p>25 taking the mouse and clicking on the</p> | <p style="text-align: right;">Page 49</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Other than your attorney, did</p> <p>3 you speak with anyone to gather</p> <p>4 information to respond to these</p> <p>5 questions?</p> <p>6 A. No.</p> <p>7 Q. Ms. Phillips, what is your date</p> <p>8 of birth?</p> <p>9 A. Date of birth?</p> <p>10 Q. Yes.</p> <p>11 A. July 21st, 1958.</p> <p>12 Q. Ms. Phillips, what is your</p> <p>13 marital status?</p> <p>14 A. I am single.</p> <p>15 Q. Do you have a significant</p> <p>16 other, for lack of a better term?</p> <p>17 A. No.</p> <p>18 Q. You testified earlier that you</p> <p>19 have a son?</p> <p>20 A. I do.</p> <p>21 Q. Do you have any other children?</p> <p>22 A. I do not.</p> <p>23 Q. What is your son's name?</p> <p>24 A. Javon.</p> <p>25 Q. Can you spell that for the</p> |

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| <p style="text-align: right;">Page 50</p> <p>1 MARJORIE PHILLIPS</p> <p>2 court reporter?</p> <p>3 A. J-a-v-o-n.</p> <p>4 Q. And how old is your son?</p> <p>5 A. 34.</p> <p>6 Q. Does he live with you?</p> <p>7 A. No, he does not.</p> <p>8 Q. Where does he live?</p> <p>9 A. He lives in Harlem.</p> <p>10 Q. Other than Javon, do you have</p> <p>11 any other children?</p> <p>12 A. I do not.</p> <p>13 Q. Okay. What is your current</p> <p>14 home address?</p> <p>15 A. 4 East 107th Street, New York,</p> <p>16 New York, 10029.</p> <p>17 Q. Is this an apartment?</p> <p>18 A. Yes, apartment 14G as in girl.</p> <p>19 Q. Do you own or rent the</p> <p>20 apartment?</p> <p>21 A. I rent.</p> <p>22 Q. Okay. How long have you lived</p> <p>23 in this apartment?</p> <p>24 A. About at least 25 years.</p> <p>25 Q. 25 years, fair enough. Other</p> | <p style="text-align: right;">Page 52</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. No, he did not.</p> <p>3 Q. What is your sister's name?</p> <p>4 A. Gail.</p> <p>5 Q. Gail?</p> <p>6 A. Yes.</p> <p>7 Q. Gail Phillips?</p> <p>8 A. Yes.</p> <p>9 Q. Have you spoken with your</p> <p>10 sister about this lawsuit?</p> <p>11 A. I have.</p> <p>12 Q. What have you told your sister</p> <p>13 about this lawsuit?</p> <p>14 A. I told her pretty much</p> <p>15 everything that was happening along the</p> <p>16 way. Maybe not every single incident,</p> <p>17 but I told her about the incidents that I</p> <p>18 was confronting at FIT along the way and</p> <p>19 to share with my sister.</p> <p>20 Q. Fair enough. Where did you go</p> <p>21 to high school?</p> <p>22 A. I went to Jamaica High School</p> <p>23 out in Queens. And I went to Long Island</p> <p>24 City High School.</p> <p>25 Q. When did you graduate?</p> |
| <p style="text-align: right;">Page 51</p> <p>1 MARJORIE PHILLIPS</p> <p>2 than yourself and your son, do you have</p> <p>3 any other immediate family?</p> <p>4 A. I do. Immediate as in I have a</p> <p>5 sister and I have lots of first cousins,</p> <p>6 which are like siblings.</p> <p>7 Q. Fair enough. Fair enough.</p> <p>8 Your sister, where does she live?</p> <p>9 A. She lives in Harlem also.</p> <p>10 Q. How regularly do you interact</p> <p>11 with her?</p> <p>12 A. Almost every day. Every other</p> <p>13 day.</p> <p>14 Q. Have you spoken with your son</p> <p>15 about this lawsuit?</p> <p>16 A. I have.</p> <p>17 Q. What have you discussed with</p> <p>18 him?</p> <p>19 A. I told him about the incident</p> <p>20 that happened and that the lawsuit was a</p> <p>21 result of the incident. Discrimination</p> <p>22 and retaliation by Mary Davis and Marilyn</p> <p>23 Barton.</p> <p>24 Q. Did your son encourage you to</p> <p>25 file this lawsuit?</p> | <p style="text-align: right;">Page 53</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I graduated in 1976, I think.</p> <p>3 Q. I'm sorry, which high school</p> <p>4 did you graduate from?</p> <p>5 A. LIC, Long Island City High</p> <p>6 School.</p> <p>7 Q. Did you attend college after</p> <p>8 high school?</p> <p>9 A. I did. I went to</p> <p>10 Berkeley-C Claremont. And I also went to</p> <p>11 Parsons School of Design.</p> <p>12 Q. Did you graduate from Berkeley?</p> <p>13 A. Yes, I did.</p> <p>14 Q. When did you graduate?</p> <p>15 A. In '78.</p> <p>16 Q. Okay. And did you go to</p> <p>17 Parsons before or after Berkeley?</p> <p>18 A. After.</p> <p>19 Q. So when did you graduate from</p> <p>20 Parsons?</p> <p>21 A. I didn't graduate from Parsons.</p> <p>22 Q. Okay. How long did you attend</p> <p>23 Parsons?</p> <p>24 A. Maybe two years. Maybe two</p> <p>25 years.</p> |

14 (Pages 50 - 53)

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| <p style="text-align: right;">Page 54</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Is there a particular reason</p> <p>3 why you didn't graduate?</p> <p>4 A. Because I became pregnant and</p> <p>5 it was kind of difficult for me to stay</p> <p>6 in school.</p> <p>7 Q. Understood. Understood. Do</p> <p>8 you hold any professional licenses?</p> <p>9 A. I do not.</p> <p>10 Q. Okay. Any certifications?</p> <p>11 A. I do not.</p> <p>12 Q. Okay. Do you have any other</p> <p>13 education or professional training?</p> <p>14 A. I do not.</p> <p>15 Q. Okay. Have you taken any</p> <p>16 courses at FIT since you started working</p> <p>17 there?</p> <p>18 A. I have, yes, sir.</p> <p>19 Q. What courses have you taken?</p> <p>20 A. I took several interior design</p> <p>21 courses. I took drafting classes. I</p> <p>22 took drawing classes. I took perspective</p> <p>23 drawing classes. I took several classes.</p> <p>24 I took CAD courses, computer aided</p> <p>25 design. I took several classes in the</p> | <p style="text-align: right;">Page 56</p> <p>1 MARJORIE PHILLIPS</p> <p>2 introduced.</p> <p>3 MR. TAUSTER: Yes, good.</p> <p>4 Q. Ms. Phillips, do you recognize</p> <p>5 this document?</p> <p>6 A. Yes. It's an old resumé.</p> <p>7 Q. Do you know at what point in</p> <p>8 time this resumé was current?</p> <p>9 A. It was current maybe -- we're</p> <p>10 in 2021. I don't know. I am going to</p> <p>11 say 20 years ago.</p> <p>12 Q. Fair enough. Have you updated</p> <p>13 your resumé since this last version?</p> <p>14 A. I will say yes, only because</p> <p>15 that goes back so far. I would say yes,</p> <p>16 but I don't know when. I haven't had a</p> <p>17 current resumé in a long time.</p> <p>18 Q. I'm sorry, what was that, you</p> <p>19 said you haven't had a current resumé in</p> <p>20 a long time?</p> <p>21 A. Yes.</p> <p>22 MR. TAUSTER: Derek, I am just</p> <p>23 going to say to the extent she has her</p> <p>24 most recent resumé beyond this, we</p> <p>25 will call for production. I know it</p> |
| <p style="text-align: right;">Page 55</p> <p>1 MARJORIE PHILLIPS</p> <p>2 interior design major.</p> <p>3 Q. Are you pursuing a degree in</p> <p>4 interior design?</p> <p>5 A. I was thinking about doing it</p> <p>6 at the time.</p> <p>7 Q. Is there a particular reason</p> <p>8 why you didn't follow through on pursuing</p> <p>9 the degree?</p> <p>10 A. I just found it hard for me --</p> <p>11 hard might not be the right word. I was</p> <p>12 raising my son and I found it, you know,</p> <p>13 that I chose to put more of an emphasis</p> <p>14 on raising my child than to taking</p> <p>15 continuing ed classes in the evening,</p> <p>16 which would have taken me further away</p> <p>17 from him. So I felt I had to make a</p> <p>18 choice and I chose to focus on my son.</p> <p>19 Q. Understood.</p> <p>20 MR. TAUSTER: Craig, can you</p> <p>21 throw up FIT Exhibit 3.</p> <p>22 (Exhibit 3, Resumé, was so</p> <p>23 marked for identification, as of this</p> <p>24 date.)</p> <p>25 MR. JONES: Exhibit 3 has been</p> | <p style="text-align: right;">Page 57</p> <p>1 MARJORIE PHILLIPS</p> <p>2 might be a bit remote, but to the</p> <p>3 extent it exists.</p> <p>4 MR. SELLS: We'll take it under</p> <p>5 advisement.</p> <p>6 Q. Mindful that these are all</p> <p>7 older employers, I am going to ask you a</p> <p>8 more general question. Prior to working</p> <p>9 at FIT, have you been -- have you ever</p> <p>10 been subjected to any disciplinary action</p> <p>11 by an employer?</p> <p>12 A. No.</p> <p>13 Q. Okay. Have you ever received a</p> <p>14 negative performance evaluation from an</p> <p>15 employer?</p> <p>16 A. I'm going to say yes.</p> <p>17 Q. Do you recall when?</p> <p>18 A. Maybe about 25 years ago.</p> <p>19 Q. Fair enough. Would you recall</p> <p>20 which employer that was?</p> <p>21 A. I think it was Naomi Leff,</p> <p>22 L-e-f-f, Naomi Leff, it was an interior</p> <p>23 designing firm.</p> <p>24 MR. TAUSTER: Craig, just really</p> <p>25 quick, can you throw up FIT Exhibit 4.</p> |

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| <p style="text-align: right;">Page 58</p> <p>1 MARJORIE PHILLIPS</p> <p>2 (Exhibit 4, Application for</p> <p>3 employment, was so marked for</p> <p>4 identification, as of this date.)</p> <p>5 MR. JONES: Loading now.</p> <p>6 Exhibit 4 has been posted. It's on</p> <p>7 the screen.</p> <p>8 Q. Okay. So Ms. Phillips, do you</p> <p>9 recognize this document, by the way?</p> <p>10 A. Sort of, yes.</p> <p>11 Q. Did you submit an application</p> <p>12 for employment in connection with your</p> <p>13 employment at FIT?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Is this your</p> <p>16 handwriting?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So I am going to scroll</p> <p>19 down this document to page 3. So do you</p> <p>20 see under Naomi Leff where it says</p> <p>21 reasons of leaving, conflict of interest?</p> <p>22 A. Mmm-hmm.</p> <p>23 Q. Do you recall what those</p> <p>24 conflicts of interest were?</p> <p>25 A. Well, when I was hired to work</p> | <p style="text-align: right;">Page 60</p> <p>1 MARJORIE PHILLIPS</p> <p>2 And I was told by unemployment that, you</p> <p>3 know, if you feel that you should be</p> <p>4 receiving it, you always have the right</p> <p>5 to have a trial or whatever they do with</p> <p>6 unemployment so that you can get it. So</p> <p>7 I did. I did. Because, you know, I felt</p> <p>8 that I should have gotten unemployment.</p> <p>9 And so I did what needed to be</p> <p>10 done in order to revisit why I wasn't</p> <p>11 getting, to have my day to speak to the</p> <p>12 authorities in, you know, I guess the</p> <p>13 Department of Labor, to determine what</p> <p>14 was her reason for denying me</p> <p>15 unemployment. And I actually ended up</p> <p>16 winning the case.</p> <p>17 Q. Congratulations. So did there</p> <p>18 come a time when you applied for a job</p> <p>19 with FIT?</p> <p>20 A. Did there come a time what?</p> <p>21 Q. Did you ever apply for a job</p> <p>22 with FIT?</p> <p>23 A. Oh, yes.</p> <p>24 Q. Yes. Do you recall when?</p> <p>25 A. Okay. Can you go back to that</p> |
| <p style="text-align: right;">Page 59</p> <p>1 MARJORIE PHILLIPS</p> <p>2 at Naomi Leff, I was hired to be the</p> <p>3 manager of her purchasing department.</p> <p>4 And after I started, you know, I don't</p> <p>5 recall -- how long did I say that, '94 to</p> <p>6 '95, it was about a year. Sometime</p> <p>7 afterwards I found that what was expected</p> <p>8 of me was over my head. And so that is</p> <p>9 the reason why I ultimately left that</p> <p>10 position.</p> <p>11 Q. Okay. Fair enough. And again,</p> <p>12 prior to your employment with FIT, have</p> <p>13 you ever lodged any complaints of</p> <p>14 discrimination or retaliation with any</p> <p>15 other employer?</p> <p>16 A. Other than FIT? Had I ever</p> <p>17 lodged any complaints about</p> <p>18 discrimination or --</p> <p>19 Q. Retaliation.</p> <p>20 A. I don't remember. But I do</p> <p>21 remember that when I applied for -- it</p> <p>22 was a long time ago, so please forgive</p> <p>23 me. I just remember that I applied for</p> <p>24 unemployment for Naomi Leff and she, she,</p> <p>25 her office, declined the unemployment.</p> | <p style="text-align: right;">Page 61</p> <p>1 MARJORIE PHILLIPS</p> <p>2 one, the page that I just saw, the one</p> <p>3 before that.</p> <p>4 Q. The one with Naomi Leff, this</p> <p>5 one?</p> <p>6 A. So I probably applied to FIT, I</p> <p>7 am going to guess, it's been so long,</p> <p>8 I'll say in '95.</p> <p>9 Q. Right. So you don't have to</p> <p>10 guess, do you see the date in the top</p> <p>11 left-hand corner?</p> <p>12 A. That's why I asked to see it,</p> <p>13 right.</p> <p>14 Q. So is it fair to say you</p> <p>15 applied in or around December of 1995?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall what position you</p> <p>18 applied for?</p> <p>19 A. I started out at FIT as a temp.</p> <p>20 I was a temp. That's how I came to FIT,</p> <p>21 I was a temp. And then sometime</p> <p>22 afterwards then I was working in HR and</p> <p>23 payroll and it was recommended to me by</p> <p>24 whoever was the supervisor at the time,</p> <p>25 that I should apply for a permanent</p> |

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| <p style="text-align: right;">Page 62</p> <p>1 MARJORIE PHILLIPS</p> <p>2 position, which I did, and I went from</p> <p>3 temp to having a part-time position at</p> <p>4 FIT.</p> <p>5 Q. Do you recall when you went</p> <p>6 from being a temp to a part time?</p> <p>7 A. No, I don't recall.</p> <p>8 Q. Was it in or about December of</p> <p>9 1995, do you think?</p> <p>10 A. I don't remember.</p> <p>11 Q. Okay. Fair enough. What were</p> <p>12 your thoughts on your initial employment</p> <p>13 at FIT?</p> <p>14 A. My initial employment, what</p> <p>15 were my thoughts about what?</p> <p>16 Q. FIT in general, what did you</p> <p>17 think about working there when you</p> <p>18 started?</p> <p>19 A. I enjoyed it. I enjoyed it a</p> <p>20 lot. I consider myself to be a creative</p> <p>21 person. And as you can see from my</p> <p>22 resumé, I have worked for interior</p> <p>23 design, architectural firms before I came</p> <p>24 to FIT. So working in a school of art</p> <p>25 and design was right for me. I enjoyed</p> | <p style="text-align: right;">Page 64</p> <p>1 MARJORIE PHILLIPS</p> <p>2 fashion design. I think I was full time</p> <p>3 while I was still in HR/payroll.</p> <p>4 Q. Did there ever come a time when</p> <p>5 you started working in the fashion design</p> <p>6 department?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall when?</p> <p>9 A. After I left HR and payroll. I</p> <p>10 don't remember what year it was exactly.</p> <p>11 I can guess. My best guess, maybe around</p> <p>12 '98. I could be wrong. I could be</p> <p>13 wrong.</p> <p>14 Q. Why did you want to switch</p> <p>15 departments?</p> <p>16 A. I wanted more money. I</p> <p>17 wanted -- I considered myself to be,</p> <p>18 consider myself to be a creative person,</p> <p>19 and fashion design, design, was more</p> <p>20 suited to Marjorie Phillips.</p> <p>21 Q. Got it. And are you still in</p> <p>22 the same position as you were when you</p> <p>23 first started working in the fashion</p> <p>24 design department?</p> <p>25 A. No.</p> |
| <p style="text-align: right;">Page 63</p> <p>1 MARJORIE PHILLIPS</p> <p>2 it.</p> <p>3 Q. I think we may have jumped</p> <p>4 around a little bit there. You said you</p> <p>5 started out working in personnel</p> <p>6 administration, payroll, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Did this come a time when you</p> <p>9 moved out of that office?</p> <p>10 A. Out of the HR and payroll</p> <p>11 office, yes. I think the first position</p> <p>12 I applied for was in fashion design, I</p> <p>13 believe.</p> <p>14 Q. Okay. Got it. So did there</p> <p>15 ever -- did you ever start working at FIT</p> <p>16 full time?</p> <p>17 A. Yes, when I worked for -- yes.</p> <p>18 I eventually, I think I became full time,</p> <p>19 I think I became full time while I was</p> <p>20 still in HR/payroll. Because it used to</p> <p>21 be one department. And I think I became</p> <p>22 full time, again, it's so long ago, I</p> <p>23 don't remember, but I either became full</p> <p>24 time while I was still in HR, HR/payroll,</p> <p>25 or I became full time when I moved to</p> | <p style="text-align: right;">Page 65</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. So what position did you start</p> <p>3 out in in the fashion design department?</p> <p>4 A. I think I was a secretary, I</p> <p>5 think.</p> <p>6 Q. And did there come a time when</p> <p>7 you were promoted?</p> <p>8 A. I don't remember. Honestly, I</p> <p>9 really don't.</p> <p>10 Q. Well, what position are you</p> <p>11 working in now in the fashion design</p> <p>12 department?</p> <p>13 A. I am an office associate in the</p> <p>14 School of Graduate Studies. I work with</p> <p>15 the fashion and textile studies program,</p> <p>16 graduate program.</p> <p>17 Q. Got it. Okay. So just so that</p> <p>18 I am more precise for purposes of the</p> <p>19 record, is the fashion design department</p> <p>20 within the School of Graduate Studies?</p> <p>21 A. No, it's not.</p> <p>22 Q. These are two separate</p> <p>23 departments?</p> <p>24 A. These are -- fashion design is</p> <p>25 in the undergraduate part of FIT. FIT is</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 MARJORIE PHILLIPS</p> <p>2 an associate degree, a fashion degree or</p> <p>3 a master's degree. The undergraduate</p> <p>4 part of the school, that was fashion</p> <p>5 design, is fashion design. The School of</p> <p>6 Graduate Studies is for students to go</p> <p>7 back to graduate school. It's a separate</p> <p>8 school. The School of Graduate Studies.</p> <p>9 It's not part of the undergraduate</p> <p>10 school.</p> <p>11 Q. Fair enough. You work in the</p> <p>12 School of Graduate Studies then, not in</p> <p>13 the fashion design department?</p> <p>14 A. Correct.</p> <p>15 Q. How many employees are there in</p> <p>16 the School of Graduate Studies?</p> <p>17 A. I don't know. If you want me</p> <p>18 to guess, I can guess, but I honestly</p> <p>19 don't know.</p> <p>20 Q. I don't need you to guess,</p> <p>21 that's fine. Who do you report to in the</p> <p>22 School of Graduate Studies?</p> <p>23 A. To the dean and to the</p> <p>24 chairperson of fashion textiles studies,</p> <p>25 Lourdes Font.</p> | <p style="text-align: right;">Page 68</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Including myself, three.</p> <p>3 Q. Are you aware that FIT has</p> <p>4 policies prohibiting discrimination and</p> <p>5 harassment in the workplace?</p> <p>6 A. I am now.</p> <p>7 MR. TAUSTER: Craig, can you</p> <p>8 throw up FIT 6.</p> <p>9 (Exhibit 5, Nondiscrimination</p> <p>10 and Anti-Harassment Policy, was so</p> <p>11 marked for identification, as of this</p> <p>12 date.)</p> <p>13 MR. JONES: Loading now.</p> <p>14 Exhibit 5, which was Exhibit 6, is now</p> <p>15 uploaded.</p> <p>16 MR. TAUSTER: Yes.</p> <p>17 MR. JONES: And it's on the</p> <p>18 screen.</p> <p>19 MR. DRANOFF: Craig, I'm sorry,</p> <p>20 you said Exhibit 5.</p> <p>21 Q. Ms. Phillips, do you recognize</p> <p>22 this document?</p> <p>23 A. No, I do not.</p> <p>24 Q. Have you ever seen it?</p> <p>25 A. No, I have not.</p> |
| <p style="text-align: right;">Page 67</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Do you report directly to the</p> <p>3 dean of the fashion department or do you</p> <p>4 have an intermediate supervisor?</p> <p>5 A. Right now, I do not report</p> <p>6 directly to the dean.</p> <p>7 Q. Do you know if there are any</p> <p>8 employees in the School of Graduate</p> <p>9 Studies that report directly to the dean?</p> <p>10 A. Marilyn Barton.</p> <p>11 Q. Anybody else?</p> <p>12 A. Directly to the dean, no.</p> <p>13 Marilyn Barton.</p> <p>14 Q. Are there other</p> <p>15 African-American employees in the School</p> <p>16 of Graduate Studies?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know if there are</p> <p>19 employees of any other races in the</p> <p>20 School of Graduate Studies?</p> <p>21 A. Can you repeat your question?</p> <p>22 Q. You know what, I will withdraw</p> <p>23 that question. How many African-American</p> <p>24 employees are there in the School of</p> <p>25 Graduate Studies?</p> | <p style="text-align: right;">Page 69</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Okay. Are you aware that FIT</p> <p>3 has a policy and procedure for employees</p> <p>4 to make complaints of discrimination and</p> <p>5 harassment?</p> <p>6 A. Yes.</p> <p>7 Q. Are you aware that FIT has a</p> <p>8 policy in place prohibiting</p> <p>9 discrimination against employees on the</p> <p>10 basis of race?</p> <p>11 A. Yes.</p> <p>12 Q. Are you aware that FIT has a</p> <p>13 human resources department?</p> <p>14 A. Yes.</p> <p>15 Q. And do you know where it's</p> <p>16 located?</p> <p>17 A. Yes.</p> <p>18 Q. Are you aware that you could</p> <p>19 bring complaints about discrimination and</p> <p>20 retaliation to human resources?</p> <p>21 A. Yes.</p> <p>22 Q. And are you aware that FIT has</p> <p>23 an Affirmative Action officer and Title 9</p> <p>24 coordinator?</p> <p>25 A. Yes.</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Are you aware of that person's</p> <p>3 duties?</p> <p>4 A. Somewhat. Not entirely.</p> <p>5 Q. Let me ask you this, what do</p> <p>6 you understand their duties to be?</p> <p>7 A. You froze. I didn't hear your</p> <p>8 question at all.</p> <p>9 Q. Okay. What do you understand</p> <p>10 the Title 9 coordinator's duties to be?</p> <p>11 A. If you're referring to the</p> <p>12 Affirmative Action officer, my</p> <p>13 understanding is with any Affirmative</p> <p>14 Action department, if an employee is</p> <p>15 experiencing what they believe to be</p> <p>16 racism on any level, racism, retaliation,</p> <p>17 that that would be the office that one</p> <p>18 would go to.</p> <p>19 Q. Okay. Is it fair to say you</p> <p>20 could go to the Affirmative Action</p> <p>21 officer with discrimination complaints?</p> <p>22 A. Yes.</p> <p>23 Q. Prior to 2018, did you ever</p> <p>24 lodge any discrimination complaints with</p> <p>25 FIT's Office of Human Resources?</p> | <p style="text-align: right;">Page 72</p> <p>1 MARJORIE PHILLIPS</p> <p>2 generally loosely. But the teacher made</p> <p>3 a comment in the class, this is an</p> <p>4 interior designing class, comparing or</p> <p>5 putting African-Americans and apes and</p> <p>6 monkeys in the same category.</p> <p>7 Q. Do you know if human resources</p> <p>8 took any action in response to this</p> <p>9 complaint?</p> <p>10 A. I believe that they did. I</p> <p>11 don't know for sure, but I believe from</p> <p>12 my memory, I believe that they did.</p> <p>13 Q. What do you believe that they</p> <p>14 did?</p> <p>15 A. I believe that they spoke with</p> <p>16 the teacher about the complaint.</p> <p>17 Q. Fair to say -- do you believe</p> <p>18 that FIT appropriately addressed this</p> <p>19 complaint?</p> <p>20 A. Yes.</p> <p>21 Q. So now focusing again on the</p> <p>22 period prior to October of 2018, did you</p> <p>23 ever lodge any complaints with the</p> <p>24 Affirmative Action officer?</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">Page 71</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Office of Human Resources?</p> <p>3 Q. Yes.</p> <p>4 A. I may have. Something minor,</p> <p>5 but I may have.</p> <p>6 Q. Do you recall what that</p> <p>7 complaint would have been?</p> <p>8 A. I complained -- it wasn't</p> <p>9 really with human resources. I</p> <p>10 complained about something that happened</p> <p>11 in a classroom with a faculty. A class</p> <p>12 that I was taking. I was a student in a</p> <p>13 class.</p> <p>14 Q. Okay. Was this a complaint</p> <p>15 about discrimination in the workplace?</p> <p>16 A. No. It was a complaint about a</p> <p>17 comment that a teacher made in a</p> <p>18 classroom to the students.</p> <p>19 Q. Okay. Apologies. Were you</p> <p>20 complaining that the remark was</p> <p>21 discriminatory?</p> <p>22 A. I was.</p> <p>23 Q. Okay. What was this remark?</p> <p>24 A. The teacher at the time -- this</p> <p>25 was a really long time ago, so this is</p> | <p style="text-align: right;">Page 73</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. What was that complaint?</p> <p>3 A. I made a complaint to the</p> <p>4 Affirmative Action officer about Pamela</p> <p>5 Ellsworth, the personnel I was working</p> <p>6 with prior to working for the chair of</p> <p>7 fashion textile studies.</p> <p>8 Q. Do you recall when you made</p> <p>9 this complaint?</p> <p>10 A. I do not, but it probably was</p> <p>11 about, let's say eight to ten years ago.</p> <p>12 Q. Okay. What did you complain</p> <p>13 about regarding Ms. Ellsworth?</p> <p>14 A. I complained that I felt that</p> <p>15 she was a racist. I felt that she spoke</p> <p>16 down to me. She spoke to me and other</p> <p>17 African-Americans differently than she</p> <p>18 did white students and employees. She</p> <p>19 treated me and other African-Americans --</p> <p>20 she just -- there was a difference</p> <p>21 between the way that she spoke to white</p> <p>22 people and the way that she spoke to</p> <p>23 black people. And I felt it was</p> <p>24 denigrating and it got to a point where</p> <p>25 it was intolerable, so I made an official</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 MARJORIE PHILLIPS</p> <p>2 complaint.</p> <p>3 Q. Do you know if FIT commenced an</p> <p>4 investigation in response to this</p> <p>5 complaint?</p> <p>6 A. I was told that they did not do</p> <p>7 an investigation. That they would not --</p> <p>8 in the beginning when I went in to make</p> <p>9 the complaint, I was told that they would</p> <p>10 not do an official investigation, but</p> <p>11 that they would ask around and have</p> <p>12 discussions, but there was no official</p> <p>13 investigation.</p> <p>14 Q. Who was it who told you that</p> <p>15 FIT would not do an investigation?</p> <p>16 A. Griselda Gonzalez, she was over</p> <p>17 in Affirmative Action at the time.</p> <p>18 Q. How did you respond to Ms.</p> <p>19 Gonzalez?</p> <p>20 A. I was disappointed. I didn't</p> <p>21 understand why there wouldn't be an</p> <p>22 official investigation. I couldn't</p> <p>23 understand what was the difference</p> <p>24 between what I was bringing versus what</p> <p>25 made an official investigation and what</p> | <p style="text-align: right;">Page 76</p> <p>1 MARJORIE PHILLIPS</p> <p>2 her every day, because of the way she</p> <p>3 spoke with me, to me, the way that she</p> <p>4 interacted with me.</p> <p>5 And I could see the way that</p> <p>6 she interacted with some of the white</p> <p>7 students, white employees, that was</p> <p>8 normal, the way you normally speak to</p> <p>9 people. The way any normal person</p> <p>10 interacts on a job. And that I never got</p> <p>11 that from her, I never received from her.</p> <p>12 And I saw that she did that to</p> <p>13 African-Americans versus Caucasian</p> <p>14 people.</p> <p>15 Q. Other than yourself, what</p> <p>16 African-Americans are you referring to?</p> <p>17 A. The people in the department.</p> <p>18 There was Umlita Allsop. There was Anton</p> <p>19 Baptise. There was this gentleman in the</p> <p>20 registrar at the time, because I deal</p> <p>21 with the registrar quite a bit, I think</p> <p>22 he was in charge of either, I think he</p> <p>23 was in charge, his name was Andrew. He</p> <p>24 was African. And I believe that he was</p> <p>25 the director of the registrar at the</p> |
| <p style="text-align: right;">Page 75</p> <p>1 MARJORIE PHILLIPS</p> <p>2 made them decide that they weren't going</p> <p>3 to do an official investigation. And I</p> <p>4 asked her, but I never really understood</p> <p>5 why she decided that it wasn't going to</p> <p>6 be official.</p> <p>7 Q. Do you know if FIT took any</p> <p>8 action in response to this complaint?</p> <p>9 A. I do not know.</p> <p>10 Q. Did you ever speak with Ms.</p> <p>11 Ellsworth about these allegations?</p> <p>12 A. Yes, I did.</p> <p>13 Q. What did you discuss with Ms.</p> <p>14 Ellsworth?</p> <p>15 A. I told her that I didn't like</p> <p>16 the way she spoke to me. I didn't</p> <p>17 appreciate it. I was totally offended.</p> <p>18 I felt it was discriminating. And she</p> <p>19 spoke to me in a way that was vile and</p> <p>20 degrading and I felt, and I couldn't go</p> <p>21 to work every day because I had to deal</p> <p>22 with this person that was like a monster</p> <p>23 and disrespecting me every single day.</p> <p>24 And it was becoming -- it was so bad that</p> <p>25 it became a mental challenge to deal with</p> | <p style="text-align: right;">Page 77</p> <p>1 MARJORIE PHILLIPS</p> <p>2 time.</p> <p>3 Q. Okay. Did you speak with them</p> <p>4 about your complaint about Ms. Ellsworth?</p> <p>5 A. Did I speak with who?</p> <p>6 Q. The other African-American</p> <p>7 employees you just referred to.</p> <p>8 A. Oh, about my complaint?</p> <p>9 Q. Yes.</p> <p>10 A. I don't remember. I don't</p> <p>11 recall. I don't recall if I spoke to</p> <p>12 them. Maybe I did, I really don't</p> <p>13 remember. But I do remember that I had</p> <p>14 given Griselda their names as possible</p> <p>15 witnesses for her to speak with.</p> <p>16 Q. Do you know if Griselda spoke</p> <p>17 with them?</p> <p>18 A. I later learned that she did</p> <p>19 not -- and later could be like years,</p> <p>20 because they don't tell you who they talk</p> <p>21 to. But I later learned that she never</p> <p>22 spoke with Umlita.</p> <p>23 Q. Did she speak with Anton?</p> <p>24 A. I don't think she did speak</p> <p>25 with Anton.</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did she speak with the other</p> <p>3 gentleman you mentioned?</p> <p>4 A. I don't know.</p> <p>5 Q. Other than this complaint on</p> <p>6 Ms. Ellsworth, and again solely focusing</p> <p>7 on the period before 2018, did you file</p> <p>8 any other complaints with the Affirmative</p> <p>9 Action Office?</p> <p>10 A. There was an Affirmative Action</p> <p>11 officer, I believe, it's all very foggy</p> <p>12 when you work there for 25 years, there</p> <p>13 was an officer -- I complained about a</p> <p>14 director who, it wasn't so much about</p> <p>15 racism. There was a director who has</p> <p>16 since been terminated. I forget her</p> <p>17 name. But I did go to the Affirmative</p> <p>18 Action officer at the time. I think his</p> <p>19 name was Juan something. I think his</p> <p>20 name was Juan something. And he has</p> <p>21 since been let go. And I complained</p> <p>22 about a couple of things.</p> <p>23 I felt that she was -- number</p> <p>24 one, I felt that she was a criminal. I</p> <p>25 felt like she was asking us to do things</p> | <p style="text-align: right;">Page 80</p> <p>1 MARJORIE PHILLIPS</p> <p>2 you know, if I see someone who is brought</p> <p>3 to tears over the way that they are being</p> <p>4 treated, I brought that to the</p> <p>5 Affirmative Action officer as well, and</p> <p>6 she felt --</p> <p>7 Q. Please continue.</p> <p>8 A. Go ahead.</p> <p>9 Q. No, I want you to finish your</p> <p>10 answer.</p> <p>11 A. And we felt that she did things</p> <p>12 based on race. That her behavior had a</p> <p>13 lot to do with her not having much</p> <p>14 experience with African-Americans.</p> <p>15 Sometimes -- yes.</p> <p>16 Q. Who is the "we" that you're</p> <p>17 referring to there?</p> <p>18 A. The person, her name was Diana</p> <p>19 Cyprus.</p> <p>20 Q. And did Diana specifically tell</p> <p>21 you that she thought this was racism?</p> <p>22 A. Yes, she did.</p> <p>23 Q. Did this director, did you ever</p> <p>24 see her use any racial slurs?</p> <p>25 A. No, I did not.</p> |
| <p style="text-align: right;">Page 79</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that I felt uncomfortable doing. I felt</p> <p>3 uncomfortable. I had worked at the</p> <p>4 college long enough to know what was</p> <p>5 right. What to do, what not to do. What</p> <p>6 is not -- what you should not be doing.</p> <p>7 And she was in the habit of asking us to</p> <p>8 do things that I felt -- I didn't feel</p> <p>9 comfortable with. So I wanted to let</p> <p>10 someone know that I didn't feel</p> <p>11 comfortable with some of the directives</p> <p>12 that she was giving us. And that's why I</p> <p>13 went to them.</p> <p>14 Q. You said this was not so much</p> <p>15 about racism. Was this about any form of</p> <p>16 discrimination or retaliation?</p> <p>17 A. Well, I thought there was some</p> <p>18 racism involved, the person that she, her</p> <p>19 personal assistant, she treated another</p> <p>20 African-American, I felt like I was</p> <p>21 witnessing her humiliating this person</p> <p>22 every day. The person was very often</p> <p>23 brought to tears. And it was, it was</p> <p>24 ongoing.</p> <p>25 And so I am the kind of person,</p> | <p style="text-align: right;">Page 81</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did Ms. Cyprus ever indicate</p> <p>3 that she ever used any racial slurs?</p> <p>4 A. I don't recall.</p> <p>5 Q. I think for lack of a better</p> <p>6 term, other than the fact that Ms. Cyprus</p> <p>7 was African-American and this director</p> <p>8 was not, is there any other basis to</p> <p>9 attribute this to racism?</p> <p>10 A. Well, she didn't -- well, let</p> <p>11 me think before I speak, because that was</p> <p>12 a long time ago. Yeah, I remember that</p> <p>13 there was a white gentleman who came to</p> <p>14 that department to work with us, for us,</p> <p>15 and may have even been a temp, but I</p> <p>16 don't remember. I think he knew</p> <p>17 somebody, I think he was connected to</p> <p>18 somebody in the college. And she treated</p> <p>19 him better than she treated Diana and I.</p> <p>20 And he was a drug addict. And the school</p> <p>21 learned later on that he was a drug</p> <p>22 addict. And she treated him with more</p> <p>23 respect than she did Diana and I. And</p> <p>24 that young man was a drug addict who used</p> <p>25 to come to work high on drugs, which is</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 MARJORIE PHILLIPS</p> <p>2 why, I think I remember thinking that he</p> <p>3 must know somebody in the college to even</p> <p>4 be able to maintain a job, when he was a</p> <p>5 drug addict. And I believe from my</p> <p>6 memory, that he was fired or terminated</p> <p>7 or let go or whatever, because they</p> <p>8 learned, I guess, it was exposed that he</p> <p>9 was a drug addict. He was high. He used</p> <p>10 to come to work high. Visibly, visibly</p> <p>11 high. Like nodding. Nodding. Slurring.</p> <p>12 And she treated him better than she</p> <p>13 treated Diana and I.</p> <p>14 Q. Do you know who he knew at the</p> <p>15 college?</p> <p>16 MR. SELLS: David, can we take a</p> <p>17 break, we have been going for almost</p> <p>18 an hour now.</p> <p>19 MR. TAUSTER: No, we haven't.</p> <p>20 We took a few too many breaks earlier.</p> <p>21 MR. SELLS: David, I am going to</p> <p>22 take a break whether you say so or</p> <p>23 not, you can't stop me from taking a</p> <p>24 break, okay.</p> <p>25 MR. TAUSTER: Derek, there is a</p> | <p style="text-align: right;">Page 84</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. SELLS: Okay. How many more</p> <p>3 questions do you have, David?</p> <p>4 MR. TAUSTER: I am literally</p> <p>5 trying to flush out something.</p> <p>6 MR. SELLS: You said you're in a</p> <p>7 line of questions, how many questions</p> <p>8 do you have, David?</p> <p>9 MR. TAUSTER: I don't know --</p> <p>10 Derek, I am talking to your client</p> <p>11 about an allegation of discrimination</p> <p>12 and you literally interrupted.</p> <p>13 MR. SELLS: An allegation of</p> <p>14 discrimination that hasn't been made</p> <p>15 in this case, right? It's not even</p> <p>16 about this case, is it, David, or is</p> <p>17 it not? Tell me how is it relevant to</p> <p>18 this case, David.</p> <p>19 MR. TAUSTER: How is it relevant</p> <p>20 to this case?</p> <p>21 MR. SELLS: Is it in the</p> <p>22 complaint? Is it in the complaint? I</p> <p>23 am wondering.</p> <p>24 MR. TAUSTER: Derek, I think you</p> <p>25 need to calm down a little bit.</p> |
| <p style="text-align: right;">Page 83</p> <p>1 MARJORIE PHILLIPS</p> <p>2 question pending. I am literally in</p> <p>3 the middle of a line of questioning.</p> <p>4 I don't know why we would be taking a</p> <p>5 break right now.</p> <p>6 MR. SELLS: Dawn, when did we</p> <p>7 last go back on the record?</p> <p>8 THE REPORTER: 11:25.</p> <p>9 MR. TAUSTER: Only 40 minutes.</p> <p>10 MR. SELLS: From when?</p> <p>11 MR. TAUSTER: When we last went</p> <p>12 on the record.</p> <p>13 MR. SELLS: I am taking a break.</p> <p>14 Marjorie, do you want to turn</p> <p>15 off your video?</p> <p>16 MR. TAUSTER: No, no, Derek,</p> <p>17 this is not your deposition, this is</p> <p>18 not your deposition. I am in the</p> <p>19 middle of a line of questioning, why</p> <p>20 are you declaring a break?</p> <p>21 MR. SELLS: Because I need to</p> <p>22 take a break. I need to take a break.</p> <p>23 MR. TAUSTER: I am in a line of</p> <p>24 questioning. Derek, this is not how</p> <p>25 it goes.</p> | <p style="text-align: right;">Page 85</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. SELLS: I asked if we could</p> <p>3 take a break.</p> <p>4 MR. TAUSTER: We don't need to</p> <p>5 take a break. This is ridiculous, I</p> <p>6 think we need to get the magistrate</p> <p>7 involved here. You don't get to keep</p> <p>8 taking breaks because you're tired.</p> <p>9 Unbelievable, unbelievable.</p> <p>10 THE REPORTER: Are we off the</p> <p>11 record?</p> <p>12 MR. TAUSTER: Apparently.</p> <p>13 (Off the record.)</p> <p>14 (Record read.)</p> <p>15 BY MR. TAUSTER:</p> <p>16 Q. Ms. Phillips, can you please</p> <p>17 answer the question?</p> <p>18 A. No, I do not.</p> <p>19 Q. Okay. Is it possible that any</p> <p>20 differential treatment was due to who he</p> <p>21 knew at the college rather than due to</p> <p>22 racism?</p> <p>23 A. I don't know.</p> <p>24 Q. Okay. So other than the issue</p> <p>25 with Ms. Ellsworth and the complaint</p> |

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| <p style="text-align: right;">Page 86</p> <p>1 MARJORIE PHILLIPS</p> <p>2 about the director, did you lodge any</p> <p>3 other complaints with the Affirmative</p> <p>4 Action Office prior to 2018?</p> <p>5 A. No.</p> <p>6 Q. Did you lodge any complaints</p> <p>7 with the Affirmative Action officer in</p> <p>8 2018?</p> <p>9 A. Yes.</p> <p>10 MR. TAUSTER: Craig, can you</p> <p>11 throw up FIT 7, which will be our 6.</p> <p>12 (Exhibit 6, Timeline of</p> <p>13 complaint to Affirmative Action, was</p> <p>14 so marked for identification, as of</p> <p>15 this date.)</p> <p>16 MR. JONES: Exhibit 6 has been</p> <p>17 introduced. I will bring it up now.</p> <p>18 It's now on the screen.</p> <p>19 MR. TAUSTER: Very good.</p> <p>20 Q. Okay. Ms. Phillips, do you</p> <p>21 recognize this document?</p> <p>22 A. Yes.</p> <p>23 Q. I'm sorry, what was that?</p> <p>24 A. Yes.</p> <p>25 Q. What is this document?</p> | <p style="text-align: right;">Page 88</p> <p>1 MARJORIE PHILLIPS</p> <p>2 weren't in a bus, we were in an office.</p> <p>3 So that reference, that historical</p> <p>4 reference to me was racist and</p> <p>5 discriminatory. And I didn't understand</p> <p>6 why she would make a remark like that.</p> <p>7 Q. Why do you believe Ms. Cowan</p> <p>8 was using that remark in a racial</p> <p>9 fashion?</p> <p>10 A. Why? I do not know why she</p> <p>11 would do that. I don't know.</p> <p>12 Q. No, I mean -- withdrawn.</p> <p>13 Do you believe Ms. Cowan was</p> <p>14 trying to be racist when she made this</p> <p>15 remark?</p> <p>16 A. Yes.</p> <p>17 Q. Why?</p> <p>18 A. I don't know why. I don't know</p> <p>19 why.</p> <p>20 Q. Did you have a positive</p> <p>21 relationship with Ms. Cowan prior to this</p> <p>22 incident?</p> <p>23 A. I didn't have a relationship</p> <p>24 with her at all.</p> <p>25 Q. Do you know if Ms. Cowan had</p> |
| <p style="text-align: right;">Page 87</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. It is a timeline of a complaint</p> <p>3 that I made to Affirmative Action, for</p> <p>4 Affirmative Action.</p> <p>5 Q. And did you lodge this</p> <p>6 complaint on March 23rd, 2018?</p> <p>7 A. Yes.</p> <p>8 Q. What is the first allegation</p> <p>9 that you assert in this complaint?</p> <p>10 A. The first incident is Brenda</p> <p>11 Cowan.</p> <p>12 Q. Okay. What are your</p> <p>13 allegations regarding Ms. Cowan?</p> <p>14 A. Ms. Cowan made a comment that</p> <p>15 was racist and discriminatory when we</p> <p>16 were in an office together and she asked</p> <p>17 me to come join her at the back of the</p> <p>18 bus.</p> <p>19 Q. Okay. What was the racist</p> <p>20 comment that she made?</p> <p>21 A. She asked me -- we weren't in a</p> <p>22 bus. We were sitting in the office. And</p> <p>23 I expressed something to her about, you</p> <p>24 know, her whispering, and she said, oh,</p> <p>25 come join us at the back of the bus. We</p> | <p style="text-align: right;">Page 89</p> <p>1 MARJORIE PHILLIPS</p> <p>2 any other African-American friends or</p> <p>3 colleagues?</p> <p>4 A. I have no idea.</p> <p>5 Q. And so is it fair to say that</p> <p>6 you were just speculating that Ms. Cowan</p> <p>7 was using this term in a racially</p> <p>8 discriminatory fashion?</p> <p>9 A. Can you repeat that question?</p> <p>10 Q. Is it fair to say that you are</p> <p>11 just speculating that Ms. Cowan was</p> <p>12 seeking to be racist?</p> <p>13 A. No, she was -- that was a</p> <p>14 racist statement that she made.</p> <p>15 Q. Is it possible that she had any</p> <p>16 other intentions regarding that</p> <p>17 statement?</p> <p>18 A. I don't know. I know what she</p> <p>19 said and I know the historical context</p> <p>20 and it was racist.</p> <p>21 Q. Is there any other context in</p> <p>22 which people might go to the back of the</p> <p>23 bus?</p> <p>24 A. No.</p> <p>25 Q. You never heard of bad children</p> |

23 (Pages 86 - 89)

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| <p style="text-align: right;">Page 90</p> <p>1 MARJORIE PHILLIPS</p> <p>2 being seated in the back of the bus?</p> <p>3 A. Not to me.</p> <p>4 Q. Did Ms. Cowan make any</p> <p>5 reference at that time to come join the</p> <p>6 bad kids in the back of the bus?</p> <p>7 A. No, she did not.</p> <p>8 Q. Did you ever speak to Ms. Cowan</p> <p>9 about this comment?</p> <p>10 A. Yes, I did.</p> <p>11 Q. Did you tell her you thought it</p> <p>12 was racist?</p> <p>13 A. Yes, I did.</p> <p>14 Q. And how did she respond?</p> <p>15 A. She claimed that that was not</p> <p>16 her intention. That's not what she</p> <p>17 meant. She didn't really say a whole</p> <p>18 lot. She didn't really say a whole lot.</p> <p>19 That was pretty much it.</p> <p>20 Q. Did she mention anything to you</p> <p>21 about referring to children in the back</p> <p>22 of the bus?</p> <p>23 A. No, she did not.</p> <p>24 Q. When did this incident with Ms.</p> <p>25 Cowan occur?</p> | <p style="text-align: right;">Page 92</p> <p>1 MARJORIE PHILLIPS</p> <p>2 was the slow bus""?</p> <p>3 A. You're asking me what did she</p> <p>4 mean?</p> <p>5 Q. I am asking what is this</p> <p>6 reference? You testified earlier that</p> <p>7 she didn't make any reference to kids on</p> <p>8 the bus or anything, correct?</p> <p>9 A. I didn't. I don't even</p> <p>10 remember that. I don't even remember --</p> <p>11 I don't know what that means. All I know</p> <p>12 is what she said.</p> <p>13 Q. Okay.</p> <p>14 A. And I didn't believe her.</p> <p>15 Q. Do you say here that you barely</p> <p>16 remember getting an apology?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did you get an apology?</p> <p>19 A. No, I don't remember getting an</p> <p>20 apology. I do not remember getting an</p> <p>21 apology.</p> <p>22 Q. Okay. Let me ask you this, you</p> <p>23 conclude here by saying, "Since then, our</p> <p>24 relationship hasn't been that</p> <p>25 interactive," correct?</p> |
| <p style="text-align: right;">Page 91</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I have approximately fall of</p> <p>3 2014.</p> <p>4 Q. Did you file a complaint in</p> <p>5 2014?</p> <p>6 A. I did not. I spoke with her.</p> <p>7 Q. Why did you not file a</p> <p>8 complaint in 2014?</p> <p>9 A. Because I spoke with her. And</p> <p>10 I don't file complaints for every single</p> <p>11 thing that someone says to me. I speak</p> <p>12 to the person and then I take it from</p> <p>13 there.</p> <p>14 Q. Why did this differ from the</p> <p>15 complaint against Ms. Ellsworth?</p> <p>16 A. I did not work with Brenda. I</p> <p>17 did not work for Brenda. I did not have</p> <p>18 the same interaction with Brenda daily.</p> <p>19 Q. Did you speak to anyone else at</p> <p>20 FIT about this incident?</p> <p>21 A. No. Just Affirmative Action.</p> <p>22 Q. Just referring to the complaint</p> <p>23 here, what is this line when you say</p> <p>24 "When I told her in the moment it was</p> <p>25 offensive, she said 'I just meant this</p> | <p style="text-align: right;">Page 93</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Okay. That's what it says.</p> <p>3 Q. Okay. So what were your -- so</p> <p>4 how interactive was your relationship</p> <p>5 with Ms. Cowan before this complaint?</p> <p>6 A. I was in the Dean's Office. So</p> <p>7 there were four of us in the Dean's</p> <p>8 Office. And I would see her pretty</p> <p>9 often, at least weekly in the office.</p> <p>10 Q. Did you interact with her</p> <p>11 weekly?</p> <p>12 A. No, I did not.</p> <p>13 Q. Did you interact with her at</p> <p>14 all prior to this incident?</p> <p>15 A. Prior to this incident?</p> <p>16 Q. Yes.</p> <p>17 A. Not very much.</p> <p>18 Q. So why would you say that</p> <p>19 "Since then, our relationship hasn't been</p> <p>20 that interactive"?</p> <p>21 A. Because when I spoke to her,</p> <p>22 then she stopped speaking. When I told</p> <p>23 her how I felt, then she stopped</p> <p>24 speaking.</p> <p>25 Q. Okay. But what do you mean by</p> |

24 (Pages 90 - 93)

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| <p style="text-align: right;">Page 94</p> <p>1 MARJORIE PHILLIPS</p> <p>2 your relationship hasn't been that</p> <p>3 interactive, because you just said you</p> <p>4 didn't have an interactive relationship</p> <p>5 with her, correct?</p> <p>6 A. Whatever we had changed,</p> <p>7 because I would see her frequently in the</p> <p>8 office. After I spoke with her about the</p> <p>9 incident, the relationship that we did</p> <p>10 have, relationship, changed.</p> <p>11 Q. What was the relationship that</p> <p>12 you had with her?</p> <p>13 A. Maybe hello, how are you doing.</p> <p>14 Q. So is it your testimony that</p> <p>15 she never said hello, how are you doing</p> <p>16 to you after fall of 2014?</p> <p>17 A. It was less and less and less</p> <p>18 until it was nothing.</p> <p>19 Q. What is your second allegation</p> <p>20 in this complaint?</p> <p>21 A. I am trying to move the</p> <p>22 document down so I can read it and I am</p> <p>23 not able to move it down.</p> <p>24 Q. I'll move it down.</p> <p>25 A. Okay.</p> | <p style="text-align: right;">Page 96</p> <p>1 MARJORIE PHILLIPS</p> <p>2 conversation?</p> <p>3 A. I walked in. It was first</p> <p>4 thing in the morning. And I walked in</p> <p>5 and just heard her saying this.</p> <p>6 Q. So you didn't hear anything</p> <p>7 prior -- please continue.</p> <p>8 A. As I stepped into the room.</p> <p>9 Q. So did you hear Ms. Barton say</p> <p>10 anything prior to African-Americans were</p> <p>11 considered three-fifths of a human being?</p> <p>12 A. No, I did not.</p> <p>13 Q. So you did not know the context</p> <p>14 of this remark at the time?</p> <p>15 A. No, I did not. No.</p> <p>16 Q. Other than yourself, Ms. Barton</p> <p>17 and the student, was anyone else present</p> <p>18 when she made the comment?</p> <p>19 A. I don't recall.</p> <p>20 Q. How would you describe Ms.</p> <p>21 Barton's demeanor when she made the</p> <p>22 comment?</p> <p>23 A. She didn't really care. She</p> <p>24 showed no remorse. She didn't apologize.</p> <p>25 Q. Just to be clear, Ms. Phillips,</p> |
| <p style="text-align: right;">Page 95</p> <p>1 MARJORIE PHILLIPS</p> <p>2 (Witness reviews document.)</p> <p>3 Q. Are you nodding because you're</p> <p>4 ready, Ms. Phillips?</p> <p>5 A. I'm ready.</p> <p>6 Q. Is your allegation against</p> <p>7 Defendant Barton is that she stated that</p> <p>8 African-Americans were considered</p> <p>9 three-fifths of a human being?</p> <p>10 A. Yes.</p> <p>11 Q. When did she make this</p> <p>12 statement?</p> <p>13 A. I can't move the document up</p> <p>14 and down.</p> <p>15 Q. Okay. So just to clarify, when</p> <p>16 do you recall her making the statement?</p> <p>17 A. This was sometime around, just</p> <p>18 before Trump was nominated.</p> <p>19 Q. And was she speaking to you?</p> <p>20 A. She was speaking to a student</p> <p>21 aide that we had in the office.</p> <p>22 Q. How close were you to this</p> <p>23 conversation?</p> <p>24 A. I'm sorry, repeat that?</p> <p>25 Q. How close were you to the</p> | <p style="text-align: right;">Page 97</p> <p>1 MARJORIE PHILLIPS</p> <p>2 I am talking about at the time she made</p> <p>3 the remark, what was her demeanor toward</p> <p>4 the student?</p> <p>5 A. Toward the student?</p> <p>6 Q. Yes.</p> <p>7 A. Again, she showed no remorse.</p> <p>8 And she didn't apologize.</p> <p>9 Q. Did you confront Ms. Barton</p> <p>10 about this comment?</p> <p>11 A. I did. I made comments, I</p> <p>12 asked her what was she talking about, why</p> <p>13 would she say -- what was she talking</p> <p>14 about, why would she say such a thing?</p> <p>15 Q. And what did she say?</p> <p>16 A. She said something about Trump.</p> <p>17 I don't remember exactly. It's in the</p> <p>18 statement. She didn't really try to make</p> <p>19 me understand -- I didn't understand.</p> <p>20 Even after what she said to me, she</p> <p>21 wasn't really trying to make me</p> <p>22 understand. She didn't apologize. And</p> <p>23 she showed no remorse. And that was it.</p> <p>24 Q. Why did you complain about this</p> <p>25 remark?</p> |

25 (Pages 94 - 97)

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| <p style="text-align: right;">Page 98</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Because I was offended. I felt</p> <p>3 because she didn't apologize, if there</p> <p>4 were, if there were some reason,</p> <p>5 something that I was misunderstanding,</p> <p>6 she didn't explain to me, she didn't</p> <p>7 bother to explain, like she didn't feel</p> <p>8 it was necessary to explain what I had</p> <p>9 overheard. It didn't seem important to</p> <p>10 her at all. It seemed racist. It was</p> <p>11 discriminating. And she knew. And she</p> <p>12 didn't seem bothered by it at all.</p> <p>13 Q. You testified earlier that she</p> <p>14 tried to give you an explanation</p> <p>15 regarding Donald Trump, right?</p> <p>16 A. No, that's not what I said. It</p> <p>17 wasn't an explanation. It was sort of,</p> <p>18 it was about Trump. I mean that's not an</p> <p>19 explanation. To say she was talking</p> <p>20 about Trump, that's not an explanation.</p> <p>21 She didn't make me understand what I had</p> <p>22 heard and what she meant by what I had</p> <p>23 heard. She did not make me understand.</p> <p>24 Because if she did, it might have been</p> <p>25 different. But she did not.</p> | <p style="text-align: right;">Page 100</p> <p>1 MARJORIE PHILLIPS</p> <p>2 disrespectful to the person who it</p> <p>3 pertains to. And so I would never say</p> <p>4 anything to her that would offend her in</p> <p>5 that way. I would never. And if I did,</p> <p>6 I would have apologized. She didn't seem</p> <p>7 to care. She didn't seem to care. She</p> <p>8 didn't care about what I felt.</p> <p>9 Q. But did she say this remark to</p> <p>10 you?</p> <p>11 A. No, she was speaking to a</p> <p>12 student aide. A young girl. A young</p> <p>13 white girl.</p> <p>14 Q. And you testified earlier that</p> <p>15 you did not know what she said before</p> <p>16 this statement, correct?</p> <p>17 A. Repeat your question, please.</p> <p>18 Q. You testified earlier that you</p> <p>19 did not know what she said before making</p> <p>20 this statement?</p> <p>21 A. I don't know what you mean.</p> <p>22 Q. Did you hear anything that Ms.</p> <p>23 Barton said prior to saying</p> <p>24 African-Americans were considered</p> <p>25 three-fifths of a human being?</p> |
| <p style="text-align: right;">Page 99</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. But why did you consider this</p> <p>3 remark to be offensive?</p> <p>4 A. Because it is offensive to</p> <p>5 refer to African-Americans as</p> <p>6 three-fifths of a human being. I have</p> <p>7 never worked at a job where someone said</p> <p>8 that African-Americans were three-fifths</p> <p>9 of a human being.</p> <p>10 Q. Well, first, is it not a matter</p> <p>11 of historical fact that under the U.S.</p> <p>12 Constitution, African-Americans held in</p> <p>13 bondage were treated as three-fifths of a</p> <p>14 human being for historical purposes?</p> <p>15 A. Yes. It's also historical that</p> <p>16 Jewish people were held in concentration</p> <p>17 camps and all sorts of terrible things</p> <p>18 were done to them. But I would not,</p> <p>19 never, ever say that in an office to</p> <p>20 another person. Because I wouldn't want</p> <p>21 to offend anyone at all. I would never</p> <p>22 say that.</p> <p>23 Q. You would never say what?</p> <p>24 A. There are all sorts of</p> <p>25 historical references that are</p> | <p style="text-align: right;">Page 101</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Prior to, no, I did not.</p> <p>3 Q. Had Ms. Barton made any racist</p> <p>4 remarks prior to this incident?</p> <p>5 A. I don't recall.</p> <p>6 Q. Did you file a complaint about</p> <p>7 this incident in 2016?</p> <p>8 A. Yes, I did.</p> <p>9 Q. In 2016?</p> <p>10 A. I filed the complaint when I</p> <p>11 filed the Affirmative Action case.</p> <p>12 Q. Right. So what I am asking you</p> <p>13 is when this remark was made in 2016, did</p> <p>14 you file a complaint?</p> <p>15 A. I did not.</p> <p>16 Q. Why not?</p> <p>17 A. Because I don't file a</p> <p>18 complaint every time someone makes a</p> <p>19 discriminating remark, a microaggression</p> <p>20 in the office every single time, I would</p> <p>21 be filing reports every week if I did</p> <p>22 that. And I did not.</p> <p>23 Q. Okay. How did this differ from</p> <p>24 the situation with Ms. Ellsworth?</p> <p>25 A. Because I work for Ms.</p> |

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| <p style="text-align: right;">Page 102</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Ellsworth. She was my supervisor.</p> <p>3 Q. Did you work with Ms. Barton?</p> <p>4 A. With.</p> <p>5 Q. Okay. So you didn't -- you did</p> <p>6 not think it was appropriate to file a</p> <p>7 complaint about a co-worker in the fall</p> <p>8 of 2016?</p> <p>9 A. I didn't say I didn't think it</p> <p>10 was appropriate. I said I didn't file a</p> <p>11 complaint. I didn't say it wasn't</p> <p>12 appropriate. I spoke with her and I did</p> <p>13 not file the complaint at that time.</p> <p>14 Q. Did you expect FIT to be able</p> <p>15 to take any action on this complaint --</p> <p>16 withdrawn.</p> <p>17 Did you complain about an</p> <p>18 incident involving Kyle Farmer in your</p> <p>19 2018 complaint?</p> <p>20 A. Yes, I did.</p> <p>21 Q. What did you allege about</p> <p>22 Mr. Farmer?</p> <p>23 A. That he's a racist. That he</p> <p>24 made a racist remark.</p> <p>25 Q. What was the racist remark that</p> | <p style="text-align: right;">Page 104</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. He said that he was glad that I</p> <p>3 brought this to his attention because he</p> <p>4 has African-American students and he was</p> <p>5 just very thankful that I brought this to</p> <p>6 his attention that I felt he was a racist</p> <p>7 and made a racist remark. He</p> <p>8 acknowledged it.</p> <p>9 Q. Did he give you any sort of</p> <p>10 gifts after this interaction?</p> <p>11 A. Gifts?</p> <p>12 Q. Did he give you a gift after</p> <p>13 this interaction?</p> <p>14 A. I don't remember. I remember</p> <p>15 him speaking about he had a hat or</p> <p>16 something for me. But I never received</p> <p>17 anything from him.</p> <p>18 Q. Do you believe that Mr. Farmer</p> <p>19 was trying to discriminate against you</p> <p>20 when he made this remark?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Why?</p> <p>23 A. Because making remarks like</p> <p>24 that are discriminating, whether you</p> <p>25 intend to do it or not, that's what</p> |
| <p style="text-align: right;">Page 103</p> <p>1 MARJORIE PHILLIPS</p> <p>2 you allege that he made?</p> <p>3 A. He walked up to me after him</p> <p>4 and Mary Davis had come out of a meeting</p> <p>5 at the end of the day and I was putting</p> <p>6 on my coat and hat, it was the</p> <p>7 wintertime, and I was leaving, we were</p> <p>8 all leaving, and he walks up to my desk</p> <p>9 and told me that I looked like I was</p> <p>10 going to the hood.</p> <p>11 Q. What was his demeanor when he</p> <p>12 made this remark to you?</p> <p>13 A. As if he was joking. He</p> <p>14 thought it was funny.</p> <p>15 Q. Is Mr. Farmer American?</p> <p>16 A. Not to my knowledge.</p> <p>17 Q. Okay. Did you confront</p> <p>18 Mr. Farmer about this comment?</p> <p>19 A. Yes, I did.</p> <p>20 Q. And what did he say?</p> <p>21 A. He said that he didn't mean</p> <p>22 anything by it. He was glad that I</p> <p>23 brought it to his attention and that he</p> <p>24 apologized.</p> <p>25 Q. Did he do anything else?</p> | <p style="text-align: right;">Page 105</p> <p>1 MARJORIE PHILLIPS</p> <p>2 you're doing. So your intention is</p> <p>3 almost irrelevant. You make a racist</p> <p>4 remark, it's a racist remark. Whether</p> <p>5 you intended to do so or not. And that's</p> <p>6 what he did. That's what Marilyn did.</p> <p>7 Whether she intended to do it or not.</p> <p>8 And Kyle apologized. Marilyn didn't even</p> <p>9 apologize. So it doesn't matter whether</p> <p>10 it's intentional or not, it's still a</p> <p>11 racist remark.</p> <p>12 Q. Do you believe it's possible</p> <p>13 for a white person to make a remark about</p> <p>14 a black person without it being</p> <p>15 discriminatory?</p> <p>16 A. Of course.</p> <p>17 Q. Do you believe it's possible</p> <p>18 for a white person to discuss race</p> <p>19 without it being discriminatory?</p> <p>20 A. Yes, of course, yes.</p> <p>21 Q. So do you believe that there is</p> <p>22 a context where someone could say I,</p> <p>23 don't know, African-Americans were</p> <p>24 considered to be three-fifths of a human</p> <p>25 being without it being a discriminatory</p> |

27 (Pages 102 - 105)

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| <p style="text-align: right;">Page 106</p> <p>1 MARJORIE PHILLIPS</p> <p>2 remark?</p> <p>3 A. No, I do not.</p> <p>4 Q. Did you file a complaint</p> <p>5 against Mr. Farmer in 2017?</p> <p>6 A. Yes, I did.</p> <p>7 Q. In 2017?</p> <p>8 A. When it happened, yes.</p> <p>9 Q. Who did you file that complaint</p> <p>10 with?</p> <p>11 A. Mary Davis.</p> <p>12 Q. Was this a written complaint?</p> <p>13 A. No. I spoke with her in her</p> <p>14 office the very next day.</p> <p>15 Q. What did Dean Davis say?</p> <p>16 A. She said she didn't know why he</p> <p>17 would make such a remark. She said you</p> <p>18 know that he's English. Because I asked</p> <p>19 her why would he say such a thing to me?</p> <p>20 Why? I said you were standing right</p> <p>21 there and he said that right in front of</p> <p>22 me and you didn't say anything. And she</p> <p>23 said she didn't know why he made that</p> <p>24 kind of remark. She couldn't answer.</p> <p>25 And she said, well, you know that he's</p> | <p style="text-align: right;">Page 108</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Okay. Did you discuss it with</p> <p>3 her at the time?</p> <p>4 A. I discussed it with her when I</p> <p>5 decided that I -- well, I went to her</p> <p>6 first. My intention was not to go</p> <p>7 directly to Affirmative Action. My</p> <p>8 intention was to speak with my supervisor</p> <p>9 about these incidents. And when I went</p> <p>10 in to talk to her, I just told her</p> <p>11 everything that I had experienced. And</p> <p>12 that was, these incidents were all</p> <p>13 included. I just told her everything.</p> <p>14 Some of them I had already told her about</p> <p>15 and others she was hearing for the first</p> <p>16 time.</p> <p>17 Q. So going back to, though, the</p> <p>18 fall 2016 incident with Ms. Barton, in</p> <p>19 the fall of 2016 at the time this remark</p> <p>20 was made, did you report this to Dean</p> <p>21 Davis?</p> <p>22 A. At the time, I don't believe</p> <p>23 so. I don't believe so. But I'm not</p> <p>24 sure.</p> <p>25 Q. Why not?</p> |
| <p style="text-align: right;">Page 107</p> <p>1 MARJORIE PHILLIPS</p> <p>2 English. As if that was to explain</p> <p>3 something.</p> <p>4 Q. Did you file a complaint with</p> <p>5 Affirmative Action in 2017?</p> <p>6 A. No. I made a complaint to my</p> <p>7 supervisor Mary Davis, our supervisor.</p> <p>8 Q. Were you satisfied with</p> <p>9 Mr. Farmer's response?</p> <p>10 A. I wouldn't say satisfied. I</p> <p>11 accepted it.</p> <p>12 Q. Do you believe he was</p> <p>13 remorseful?</p> <p>14 A. No, I do not.</p> <p>15 Q. Why not?</p> <p>16 A. Because actions speak louder</p> <p>17 than words. And I just felt they were</p> <p>18 words, but I accepted it. I still view</p> <p>19 him as a racist.</p> <p>20 Q. Did you discuss the incident</p> <p>21 involving Ms. Cowan with Dean Davis?</p> <p>22 A. No, I did not.</p> <p>23 Q. Did you discuss the</p> <p>24 three-fifths incident with Dean Davis?</p> <p>25 A. Yes, I did.</p> | <p style="text-align: right;">Page 109</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Why not what?</p> <p>3 Q. Why didn't you report this to</p> <p>4 Dean Davis?</p> <p>5 A. Immediately, you mean, because</p> <p>6 I did report it to her.</p> <p>7 Q. Yes, immediately.</p> <p>8 A. I don't remember. I would be</p> <p>9 guessing. I would be guessing. I don't</p> <p>10 remember.</p> <p>11 Q. Did you complain about any</p> <p>12 other incidents in the 2018 Affirmative</p> <p>13 Action complaint?</p> <p>14 A. Whatever appears here on this</p> <p>15 complaint is what I complained about,</p> <p>16 what is in writing. There was nothing</p> <p>17 outside of that, at that time.</p> <p>18 Q. Did you make -- I'm sorry, what</p> <p>19 was that?</p> <p>20 A. At that time.</p> <p>21 Q. Okay. Did you include in here</p> <p>22 a complaint about Brenda Cowan giving you</p> <p>23 a gift?</p> <p>24 A. Did I complain about it?</p> <p>25 Q. Yes.</p> |

28 (Pages 106 - 109)

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| <p style="text-align: right;">Page 110</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I didn't make a complaint about</p> <p>3 it. I didn't accept it.</p> <p>4 Q. I would like to refer you to --</p> <p>5 let me just see something, if this</p> <p>6 continues. Referring to the bottom of</p> <p>7 this page for the fourth incident of</p> <p>8 occurrence, can you review that and let</p> <p>9 me know when you're finished reading.</p> <p>10 (Witness reviews document.)</p> <p>11 A. I would like to scroll down, I</p> <p>12 don't know if I am seeing the whole</p> <p>13 thing.</p> <p>14 Q. You are, because this goes to</p> <p>15 the fifth incident of occurrence.</p> <p>16 A. What was your question now?</p> <p>17 Q. What was this fourth incident</p> <p>18 of occurrence that you felt compelled to</p> <p>19 include in a discrimination complaint?</p> <p>20 A. I don't understand your</p> <p>21 question.</p> <p>22 Q. Why did you include this</p> <p>23 incident in your discrimination</p> <p>24 complaint?</p> <p>25 A. About the gift?</p> | <p style="text-align: right;">Page 112</p> <p>1 MARJORIE PHILLIPS</p> <p>2 always for everyone, yes.</p> <p>3 Q. So did she get gifts for your</p> <p>4 other co-workers?</p> <p>5 A. Yes. I wasn't always aware of</p> <p>6 it, but I would say yes.</p> <p>7 Q. So just for the gifts that</p> <p>8 you're aware of, were they different from</p> <p>9 the gifts that you were receiving?</p> <p>10 A. I wasn't comparing, I don't</p> <p>11 know. I wasn't comparing. It wasn't a</p> <p>12 matter of comparison.</p> <p>13 Q. What I am asking, I guess, do</p> <p>14 you believe she was giving white</p> <p>15 co-workers better gifts than</p> <p>16 African-American co-workers?</p> <p>17 A. I don't know. I just know what</p> <p>18 I received.</p> <p>19 Q. But why do you -- actually, let</p> <p>20 me take a step back here. When did she</p> <p>21 start giving you these gifts?</p> <p>22 A. I don't recall.</p> <p>23 Q. Was it before --</p> <p>24 A. I mean, I think you're</p> <p>25 overstating it a bit. Maybe it was two</p> |
| <p style="text-align: right;">Page 111</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Yes.</p> <p>3 A. Because I am a 63-year-old</p> <p>4 woman. At the time I wasn't 63, but I am</p> <p>5 older than probably half of the staff</p> <p>6 there in the School of Graduate Studies,</p> <p>7 referring to Brenda Cowan at the time.</p> <p>8 And I was offended. I was offended by</p> <p>9 the things she was giving me. I couldn't</p> <p>10 understand, was there a message. I was</p> <p>11 offended. And I didn't know what she was</p> <p>12 trying to say to me. It seemed like she</p> <p>13 was demeaning me. I felt like -- I</p> <p>14 didn't understand what she was trying to</p> <p>15 communicate with me. I mean I am an</p> <p>16 adult. I don't know how old she is. But</p> <p>17 to give someone who may be your senior a</p> <p>18 pencil as a gift, I didn't understand</p> <p>19 that. I still don't understand that.</p> <p>20 Q. A few questions about this.</p> <p>21 First you say in here she would bring</p> <p>22 things back for us in the office; is that</p> <p>23 correct?</p> <p>24 A. She would brings things back,</p> <p>25 yes. Not necessarily -- yes, yes. Not</p> | <p style="text-align: right;">Page 113</p> <p>1 MARJORIE PHILLIPS</p> <p>2 gifts. And I don't remember when.</p> <p>3 Q. I don't know what I can be</p> <p>4 overstating, because you included --</p> <p>5 A. I just want it to be clear that</p> <p>6 it's maybe two gifts. I just want that</p> <p>7 to be clear.</p> <p>8 Q. So two gifts over the entirety</p> <p>9 of your employment?</p> <p>10 A. Possibly, yes. Yes.</p> <p>11 Q. Okay. Well, I mean in this</p> <p>12 fourth incident of occurrence, you appear</p> <p>13 to be saying she gave you an eraser, a</p> <p>14 pencil and something from Duane Reade; is</p> <p>15 that correct?</p> <p>16 A. Yes.</p> <p>17 Q. So it's at least three gifts,</p> <p>18 correct?</p> <p>19 A. They may have been together.</p> <p>20 It could have been two in one.</p> <p>21 Q. And this was in, I'm sorry,</p> <p>22 when was this? Do you recall?</p> <p>23 A. No, I don't recall.</p> <p>24 Q. Was this after 2014?</p> <p>25 A. I don't recall.</p> |

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| <p style="text-align: right;">Page 114</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Was this after the back of the</p> <p>3 bus incident with Ms. Cowan?</p> <p>4 A. I don't know if it was before</p> <p>5 or after.</p> <p>6 Q. Let me ask you this. Based on</p> <p>7 the fact that you listed it as the fourth</p> <p>8 incident of occurrence in your complaint,</p> <p>9 do you believe that occurred after this</p> <p>10 incident?</p> <p>11 A. Can you repeat that again?</p> <p>12 Q. Given that this is the fourth</p> <p>13 incident of occurrence and the back of</p> <p>14 the bus was the first incident of</p> <p>15 occurrence, do you believe that this</p> <p>16 incident occurred after that?</p> <p>17 A. No, I think it happened before.</p> <p>18 I am pretty certain it happened before.</p> <p>19 Q. You're pretty certain that the</p> <p>20 gift return happened before the back of</p> <p>21 the bus comment?</p> <p>22 A. I can't be sure of the</p> <p>23 timeline. I can't be sure.</p> <p>24 MR. TAUSTER: Craig, can you</p> <p>25 throw Exhibit 1 back up there again.</p> | <p style="text-align: right;">Page 116</p> <p>1 MARJORIE PHILLIPS</p> <p>2 disrespectful and very insensitive and</p> <p>3 just callous, because she knew, and it</p> <p>4 wasn't the first time, she knew that I</p> <p>5 was a single mother. And I said to her</p> <p>6 that, I don't remember my exact words,</p> <p>7 but I expressed how I felt about what she</p> <p>8 said, using those words, "bastard,"</p> <p>9 "illegitimate," and I said, well, my son</p> <p>10 isn't a bastard, he isn't illegitimate.</p> <p>11 And she said, well, there are some</p> <p>12 socioeconomic circumstances he would be</p> <p>13 considered that.</p> <p>14 Q. So let me ask you this. When</p> <p>15 Ms. Barton was first discussing the</p> <p>16 funeral, was she talking to you?</p> <p>17 A. Yes, she was talking to Umilta</p> <p>18 and myself.</p> <p>19 Q. Because you say here "They were</p> <p>20 talking about it as I walked in in the</p> <p>21 morning."</p> <p>22 A. And I joined the conversation.</p> <p>23 So she was talking to both of us.</p> <p>24 Q. So it's fair to say you</p> <p>25 inserted yourself into this conversation?</p> |
| <p style="text-align: right;">Page 115</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Okay. Withdrawn. Let's go</p> <p>3 back to number 6. So the fourth incident</p> <p>4 of occurrence you list Brenda returning</p> <p>5 the gift. What is this fifth incident of</p> <p>6 occurrence?</p> <p>7 (Witness reviews document.)</p> <p>8 A. Okay. What was your question?</p> <p>9 Q. So I am going to focus I guess</p> <p>10 on the second half of this. So what was</p> <p>11 this discussion regarding, for lack of a</p> <p>12 better term, the March 9th discussion</p> <p>13 after Marilyn went to a funeral, tell me</p> <p>14 about that?</p> <p>15 A. She had come into the office</p> <p>16 after the funeral and she was talking</p> <p>17 about it a little bit, and she said that</p> <p>18 a cousin of hers was really upset, I</p> <p>19 guess the cousin, I don't remember, was</p> <p>20 really upset because he learned, again</p> <p>21 loosely, I don't remember, he learned his</p> <p>22 parents may have not been married and he</p> <p>23 was, he would be considered a bastard, an</p> <p>24 illegitimate child. And something along</p> <p>25 that nature. And I found that to be</p> | <p style="text-align: right;">Page 117</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. No, I didn't insert myself --</p> <p>3 we're in an office that's probably about</p> <p>4 10 by 12, so we often join in on</p> <p>5 conversations. I wasn't being excluded</p> <p>6 in other words.</p> <p>7 Q. Was Ms. Barton saying her uncle</p> <p>8 was concerned that he was going to find</p> <p>9 out he was going to be a bastard?</p> <p>10 A. Cousin or uncle or something,</p> <p>11 yes.</p> <p>12 Q. So why would that be offensive</p> <p>13 to you?</p> <p>14 A. Because she knows -- first of</p> <p>15 all, it wasn't the first time that she</p> <p>16 threw that word around. She had said</p> <p>17 that before. I don't remember, but I</p> <p>18 know it wasn't the first time. The first</p> <p>19 time I didn't say anything.</p> <p>20 And she knew that I was a</p> <p>21 single mother. She knew that. That was</p> <p>22 common knowledge. And that was -- and</p> <p>23 she knew that. So to say that, I was</p> <p>24 hurt by what she said, the way she was</p> <p>25 tossing it around. And when I clarified</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 MARJORIE PHILLIPS</p> <p>2 and questioned her a little bit about</p> <p>3 what she said, she just shrugged her</p> <p>4 shoulders and said, well, in some</p> <p>5 socioeconomic groups he would be</p> <p>6 considered a bastard, he would be</p> <p>7 considered illegitimate. Even after I</p> <p>8 told her how I felt. I told her how I</p> <p>9 felt. I would never have said that to</p> <p>10 her.</p> <p>11 Q. Do you believe she was having</p> <p>12 this discussion about her relative at a</p> <p>13 funeral to discriminate against you on</p> <p>14 the basis of your race?</p> <p>15 A. No, I believe when she came to</p> <p>16 the office and was telling us about it</p> <p>17 and was being insensitive, that she knew</p> <p>18 what she was doing. I mean she didn't</p> <p>19 have to come to the office and share</p> <p>20 that, but she did.</p> <p>21 Q. But is she not able to come to</p> <p>22 the office and share discussion with her</p> <p>23 colleagues? I am a little confused why</p> <p>24 this incident would have tracked back to</p> <p>25 you.</p> | <p style="text-align: right;">Page 120</p> <p>1 MARJORIE PHILLIPS</p> <p>2 was. I went to Affirmative Action in</p> <p>3 March/April of 2018, so it definitely was</p> <p>4 before March of 2018. Early 2018. Could</p> <p>5 have been 2017. Late 2017.</p> <p>6 MR. TAUSTER: Craig, can you</p> <p>7 throw up FIT Exhibit 8.</p> <p>8 MR. JONES: Exhibit 7 has been</p> <p>9 introduced and it's coming up now.</p> <p>10 (Exhibit 7, Phillips job</p> <p>11 description emails with HR 2017, was</p> <p>12 so marked for identification, as of</p> <p>13 this date.)</p> <p>14 Q. Could you just review this</p> <p>15 exhibit and tell me if this refreshes</p> <p>16 your recollection about the time frame?</p> <p>17 A. Yes, I said late 2017 or early</p> <p>18 2018, yes.</p> <p>19 Q. So did you meet with Natacha</p> <p>20 Unelus to discuss a job title change or</p> <p>21 salary change?</p> <p>22 A. Yes.</p> <p>23 Q. What did you discuss with her?</p> <p>24 A. I told her that Mary Davis and</p> <p>25 I had had a conversation about an upgrade</p> |
| <p style="text-align: right;">Page 119</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Because I am a single mother.</p> <p>3 And I told her that my son is not a</p> <p>4 bastard. And he's not illegitimate. And</p> <p>5 she was generalizing.</p> <p>6 Q. Prior to filing this 2018</p> <p>7 Affirmative Action complaint, did you</p> <p>8 have any discussions with Dean Davis</p> <p>9 about a change in your job title or</p> <p>10 salary?</p> <p>11 A. Yes, I did.</p> <p>12 Q. When did these discussions take</p> <p>13 place?</p> <p>14 A. In 2018, as you suggested.</p> <p>15 Q. No, I mean prior to 2018. Do</p> <p>16 you remember when you had these</p> <p>17 discussions?</p> <p>18 A. Prior to 2018?</p> <p>19 Q. Yes, prior to filing the</p> <p>20 Affirmative Action complaint, did you</p> <p>21 have any discussions with Dean Davis</p> <p>22 about a change in job title or salary?</p> <p>23 A. Yes, I did, yes.</p> <p>24 Q. When?</p> <p>25 A. I don't remember what month it</p> | <p style="text-align: right;">Page 121</p> <p>1 MARJORIE PHILLIPS</p> <p>2 and a new job title. She had more</p> <p>3 responsibility, she was going to give me</p> <p>4 more responsibility. We had discussed</p> <p>5 what would be involved in this new</p> <p>6 position. And she asked me, Dean Davis</p> <p>7 had asked me to look into a job title</p> <p>8 that would reflect this new job. And so</p> <p>9 we had -- so in that discussion with Dean</p> <p>10 Davis, we had decided that I was going to</p> <p>11 go to human resources, because, you know,</p> <p>12 they could help me with that. And I</p> <p>13 would decide what was the best job title</p> <p>14 for this position that we were</p> <p>15 discussing.</p> <p>16 Q. Okay. Were you required to</p> <p>17 submit any paperwork to human resources</p> <p>18 in connection with this process?</p> <p>19 A. In connection with having a</p> <p>20 meeting with Natacha about a job title,</p> <p>21 no.</p> <p>22 Q. You just said you were going to</p> <p>23 go to human resources because they can</p> <p>24 help you with --</p> <p>25 A. I went to human resources.</p> |

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| <p style="text-align: right;">Page 122</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Right. So I am asking did you</p> <p>3 submit any documents to human resources?</p> <p>4 A. No, I just sent an e-mail</p> <p>5 requesting an appointment to talk about</p> <p>6 what the dean and I had discussed and to</p> <p>7 talk about a job title with the input of</p> <p>8 HR based on my discussion with the dean.</p> <p>9 Q. Did you have that meeting with</p> <p>10 HR?</p> <p>11 A. I did.</p> <p>12 Q. So what had you -- what was the</p> <p>13 outcome of that meeting?</p> <p>14 A. Natacha sent me a couple of,</p> <p>15 talked about steps, different steps, you</p> <p>16 know, at FIT everything is based on</p> <p>17 salary schedule and step. And she sent</p> <p>18 me a couple of job descriptions.</p> <p>19 Different, a couple of different job</p> <p>20 descriptions that we might consider for</p> <p>21 this new position.</p> <p>22 Q. Did you have any further</p> <p>23 discussions with Natacha on this point?</p> <p>24 A. No, because that's, that is</p> <p>25 what I needed from her.</p> | <p style="text-align: right;">Page 124</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to discuss the upgrade?</p> <p>3 A. No, because by then, I was sort</p> <p>4 of going, based on the conversation that</p> <p>5 we had, and going by what happened the</p> <p>6 last time they let me see the upgrade, by</p> <p>7 now the Affirmative Action case, I had</p> <p>8 made the complaint in the Affirmative</p> <p>9 Action case, and the temperature in the</p> <p>10 office had changed. The relationship</p> <p>11 between the dean and I had changed.</p> <p>12 And when you go for an upgrade,</p> <p>13 a large part of it is the supervisor</p> <p>14 driving, because again, that was my</p> <p>15 experience, and coupled with the</p> <p>16 Affirmative Action complaint, the</p> <p>17 discrimination that we had discussed, I</p> <p>18 felt that the dean was retaliating</p> <p>19 against me for the Affirmative Action</p> <p>20 case. So she never, we never had any</p> <p>21 further discussion. She never brought it</p> <p>22 up again, and it sort of like died in the</p> <p>23 water, because I felt like she was</p> <p>24 retaliating because of the Affirmative</p> <p>25 Action case.</p> |
| <p style="text-align: right;">Page 123</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Does FIT have a process in</p> <p>3 place to change job titles and salary?</p> <p>4 A. Yes.</p> <p>5 Q. Are you familiar with that</p> <p>6 process?</p> <p>7 A. I haven't done it in a long</p> <p>8 time, but there is some paperwork</p> <p>9 involved in an upgrade, yes.</p> <p>10 Q. Are you tasked with completing</p> <p>11 any of that paperwork?</p> <p>12 A. No. The last time I received</p> <p>13 an upgrade, I didn't have to do it</p> <p>14 myself. The person, my supervisor, who I</p> <p>15 worked for, did it himself, and I</p> <p>16 basically didn't have to do anything. We</p> <p>17 had a discussion, the same that I had</p> <p>18 with Mary Davis, and he came back to me,</p> <p>19 he talked a little bit about what the job</p> <p>20 title would be. What he had discussed</p> <p>21 with HR. And to see if I was in</p> <p>22 agreement and then I got an upgrade. So</p> <p>23 I didn't have to do it, he did it.</p> <p>24 Q. So after this meeting with</p> <p>25 Natacha, did you sit down with Dean Davis</p> | <p style="text-align: right;">Page 125</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. So you said she never brought</p> <p>3 it up again. Did you ever bring it up</p> <p>4 with her again?</p> <p>5 A. I didn't. I felt</p> <p>6 uncomfortable. I felt very uncomfortable</p> <p>7 at that time. And, you know, I even</p> <p>8 reached out to the Affirmative Action</p> <p>9 Officer Deliwe to ask her, I told her</p> <p>10 that I felt uncomfortable, and I asked</p> <p>11 her would the Affirmative Action case</p> <p>12 impact my discussion and my getting an</p> <p>13 upgrade. And she said that it shouldn't.</p> <p>14 And she told me that I should speak with</p> <p>15 the dean.</p> <p>16 I felt very uncomfortable,</p> <p>17 because by then the relationship had</p> <p>18 changed and she was very standoffish.</p> <p>19 She changed from who she was -- that</p> <p>20 conversation that we had before the</p> <p>21 Affirmative Action case was not the same</p> <p>22 person that I was dealing with after the</p> <p>23 Affirmative Action case, complaint.</p> <p>24 Q. And you said Deliwe, is this</p> <p>25 Deliwe Kekana?</p> |

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| <p style="text-align: right;">Page 126</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. So after she told you to speak</p> <p>4 with Dean Davis, did you?</p> <p>5 A. No, I did not. I felt</p> <p>6 uncomfortable.</p> <p>7 Q. So fair to say that you stopped</p> <p>8 pursuing the upgrade after you filed your</p> <p>9 Affirmative Action complaint?</p> <p>10 A. I felt that the dean was the</p> <p>11 one who was going to make it happen. We</p> <p>12 had had a full discussion and she wanted</p> <p>13 it to happen, then the ball was really</p> <p>14 sort of -- the ball was in her court.</p> <p>15 And so she didn't do anything. She</p> <p>16 didn't do -- I felt very uncomfortable.</p> <p>17 I felt like she was retaliating against</p> <p>18 me. That there was definite</p> <p>19 discrimination and retaliation because of</p> <p>20 the discrimination case.</p> <p>21 Q. Did you have an incident with</p> <p>22 Defendant Barton on May 16th, 2019?</p> <p>23 A. Yes, I did.</p> <p>24 Q. Okay. Tell me about this</p> <p>25 incident.</p> | <p style="text-align: right;">Page 128</p> <p>1 MARJORIE PHILLIPS</p> <p>2 anything. No one could really help her.</p> <p>3 And they sent her up to the School of</p> <p>4 Graduate Studies.</p> <p>5 So when she came up there, she</p> <p>6 told us this and I offered and Marilyn</p> <p>7 offered, both of us were saying that she</p> <p>8 should speak with Carla, because Carla</p> <p>9 was the person downstairs in the gym who</p> <p>10 was in charge of that whole process for</p> <p>11 gowns, robes. And it started getting a</p> <p>12 little, Marilyn was talking to her, and I</p> <p>13 was talking to her. And Marilyn said at</p> <p>14 one point, I was suggesting that the</p> <p>15 student go back downstairs and I was</p> <p>16 going to try to work on her behalf by</p> <p>17 calling Carla directly and speaking with</p> <p>18 her and so just running interference for</p> <p>19 the student so that Carla could help her,</p> <p>20 so that's what the procedure was.</p> <p>21 That's what we were directed to</p> <p>22 do, because we didn't have a robe because</p> <p>23 she hadn't paid for one. So I thought</p> <p>24 that Carla could help her in whatever</p> <p>25 way. And so then Marilyn sort of took</p> |
| <p style="text-align: right;">Page 127</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Well, on May 16th of 2019, a</p> <p>3 student had come into the School of</p> <p>4 Graduate Studies office, the dean's</p> <p>5 office, and -- excuse me, let me get some</p> <p>6 water.</p> <p>7 So it was around graduation</p> <p>8 time, and the students were coming into</p> <p>9 the office to pick up their pre-ordered</p> <p>10 regalia. Their robes. And each student</p> <p>11 was expected to pay for the robe in</p> <p>12 advance and then come into the dean's</p> <p>13 office to pick it up.</p> <p>14 So this particular student came</p> <p>15 in, and she was one of the students from</p> <p>16 my program, the fashion and textile</p> <p>17 studies, so I knew the student pretty</p> <p>18 well, or well enough. And so I attempted</p> <p>19 to help her. So she was sort of talking,</p> <p>20 and as she was telling us that she had</p> <p>21 not placed an order for the regalia, that</p> <p>22 she had not done anything, and she went</p> <p>23 down to the gym, wherever they were</p> <p>24 supposed to be picking up these robes,</p> <p>25 she went down there first and no one knew</p> | <p style="text-align: right;">Page 129</p> <p>1 MARJORIE PHILLIPS</p> <p>2 over the conversation, and she went out</p> <p>3 into the hallway and I guess she had some</p> <p>4 robes left over from last year in the</p> <p>5 cabinet. So she took one out and she</p> <p>6 gave it to the student. I didn't see it,</p> <p>7 but that's what she did. And then she</p> <p>8 came back into the office without the</p> <p>9 student. And when she came back in, I</p> <p>10 asked her why would she do that, because,</p> <p>11 you know, is that the procedure for</p> <p>12 someone who doesn't, hadn't paid for the</p> <p>13 gowns, we just give them one out of the</p> <p>14 cabinet, is that what we're doing. And</p> <p>15 she said, I just made an executive</p> <p>16 decision. I just made an executive</p> <p>17 decision. I was trying to be nice.</p> <p>18 So I said, well, that seems</p> <p>19 like preferential treatment. Why would</p> <p>20 you -- I mean is that what we're doing.</p> <p>21 If someone else walks in, is that what we</p> <p>22 do, just walk into the cabinet. And she</p> <p>23 got really angry because I was asking her</p> <p>24 questions. And I couldn't understand why</p> <p>25 she was getting so angry, because what</p> |

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| <p style="text-align: right;">Page 130</p> <p>1 MARJORIE PHILLIPS</p> <p>2 she did was not the procedure. We knew</p> <p>3 what the procedure was. You don't have a</p> <p>4 gown if you have not purchased it, if you</p> <p>5 have not paid for it prior to that day,</p> <p>6 then you speak with Carla downstairs.</p> <p>7 And so she got really angry</p> <p>8 that I was asking her questions and she</p> <p>9 said to me that she made this executive</p> <p>10 decision. She doesn't give a fuck what I</p> <p>11 do. Fuck you. Shut the fuck up.</p> <p>12 Fucking I'll kill you. And she just got</p> <p>13 louder and louder and louder. And she</p> <p>14 said, I'm tired of your bullshit. I'm</p> <p>15 tired of your shit. Fuck you. Fuck you.</p> <p>16 Fuck you. I'll fucking kill you. I'm so</p> <p>17 fucking sick and tired of you, like that.</p> <p>18 Like that, but worse.</p> <p>19 I feel kind of embarrassed that</p> <p>20 I'm doing this right now. Because it was</p> <p>21 even worse than that. And she was in my</p> <p>22 face. She had walked over to me from her</p> <p>23 desk and she was in my face, and she was</p> <p>24 foaming at the mouth. She had foam. And</p> <p>25 she was like this close to me. She's</p> | <p style="text-align: right;">Page 132</p> <p>1 MARJORIE PHILLIPS</p> <p>2 couldn't take my eyes off of her. I was</p> <p>3 paralyzed with fear. And she just kept</p> <p>4 yelling and telling me she's going to</p> <p>5 fucking kill me, and I was scared for my</p> <p>6 life. I didn't know what she was going</p> <p>7 to do. If she had a weapon. And she was</p> <p>8 just screaming these things. And I was</p> <p>9 paralyzed with fear. I was paralyzed</p> <p>10 with fear. I thought she was going to</p> <p>11 kill me.</p> <p>12 My life flashed in front of me,</p> <p>13 but I couldn't do anything. I was</p> <p>14 paralyzed. And then after saying it</p> <p>15 probably 20 times and yelling, don't</p> <p>16 fucking tell me to calm down, shut the</p> <p>17 fuck up, fuck you, I'm tired of your</p> <p>18 shit, I'm tired of your shit, and then</p> <p>19 she turned and she walked out of the</p> <p>20 office.</p> <p>21 Q. So you testified that Ms.</p> <p>22 Barton physically put her hands on you?</p> <p>23 A. Yes, she did.</p> <p>24 Q. Did she push you?</p> <p>25 A. She did. And that's when I</p> |
| <p style="text-align: right;">Page 131</p> <p>1 MARJORIE PHILLIPS</p> <p>2 like, I'm tired of your shit. I'm tired</p> <p>3 of your bullshit. Shut the fuck up.</p> <p>4 Fucking fuck you. I'll fucking kill you.</p> <p>5 Over and over and over and over and over.</p> <p>6 She kept on saying that. And she told me</p> <p>7 she was going to fucking kill me and to</p> <p>8 shut the fuck up. Over and over. I am</p> <p>9 tired of your shit. Over and over.</p> <p>10 And then she got so close to me</p> <p>11 and she put her hands on my chest like to</p> <p>12 push me, and I stood up, I stood up, I</p> <p>13 put my hands up, I stood up, and I said,</p> <p>14 calm down. She said, don't fucking tell</p> <p>15 me to fucking calm down. Fuck you. Shut</p> <p>16 the fuck up. And she was all in my face.</p> <p>17 Over and over and over. Yelling and</p> <p>18 screaming. And yelling and screaming.</p> <p>19 And I just kept saying, calm down. Calm</p> <p>20 down. And I couldn't -- I couldn't even</p> <p>21 believe, I was so afraid that she was</p> <p>22 going to fucking kill me. That she had a</p> <p>23 weapon or something, because she just</p> <p>24 kept saying, I'm going to fucking kill</p> <p>25 you. And I was scared for my life. I</p> | <p style="text-align: right;">Page 133</p> <p>1 MARJORIE PHILLIPS</p> <p>2 stood up. That's when I stood up. And I</p> <p>3 said -- when she put her hands on me,</p> <p>4 that's when I stood up. And I said, calm</p> <p>5 down. At that point I was afraid. It's</p> <p>6 one thing -- I was afraid already. I was</p> <p>7 already afraid, but then when she touched</p> <p>8 me and she put her hands on me and she</p> <p>9 pushed me, like I didn't know what she</p> <p>10 was going to do next. I just didn't know</p> <p>11 what was coming next. And I was -- I was</p> <p>12 scared to death. I was scared to death.</p> <p>13 I was scared to death. But I was</p> <p>14 paralyzed. I was paralyzed. It's like a</p> <p>15 bad dream that you can't get out of.</p> <p>16 Like you're stuck and you can't move.</p> <p>17 Like I just -- that's what happened. And</p> <p>18 then she left the office, just like that.</p> <p>19 She stormed out of the office.</p> <p>20 Q. Other than yourself and Ms.</p> <p>21 Barton, did anyone else at FIT witness</p> <p>22 this incident?</p> <p>23 A. Umilta was in the office. She</p> <p>24 was there.</p> <p>25 Q. Anybody else?</p> |

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| <p style="text-align: right;">Page 134</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. No.</p> <p>3 Q. Did you bring this incident to</p> <p>4 the attention of HR?</p> <p>5 A. Yes.</p> <p>6 Q. Who within HR did you inform</p> <p>7 about the incident?</p> <p>8 A. Natacha.</p> <p>9 Q. What did you tell Natacha?</p> <p>10 A. I told her, I explained the</p> <p>11 whole entire incident to her, just what I</p> <p>12 described to you. I told her everything</p> <p>13 that happened.</p> <p>14 Q. What did she say in response?</p> <p>15 A. I told her that I felt Marilyn</p> <p>16 was retaliating because of the</p> <p>17 Affirmative Action case that was</p> <p>18 lingering. And that it was a clear case</p> <p>19 of discrimination and retaliation, and</p> <p>20 that if it hadn't gone on for so long, I</p> <p>21 felt that FIT was responsible and had put</p> <p>22 me in this position because it was</p> <p>23 lingering and nothing was done about it</p> <p>24 for months and months and months and</p> <p>25 months and months. They never gave me a</p> | <p style="text-align: right;">Page 136</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Is Ms. Barton your supervisor?</p> <p>3 A. No, she is not.</p> <p>4 Q. Do you report to her in any</p> <p>5 fashion?</p> <p>6 A. No, I do not.</p> <p>7 Q. Is she authorized to discipline</p> <p>8 you in any way?</p> <p>9 A. No, she is not.</p> <p>10 Q. Is she authorized to physically</p> <p>11 assault you in any way?</p> <p>12 A. No, she is not.</p> <p>13 Q. Why did you believe this</p> <p>14 incident was discrimination?</p> <p>15 A. I have never seen her act that</p> <p>16 way with a white person. I have never</p> <p>17 seen her behave that way with a white</p> <p>18 person. And the only other person that</p> <p>19 was in the office was another</p> <p>20 African-American, so she felt free to do</p> <p>21 what she wanted to do because the college</p> <p>22 wasn't doing anything. The college had</p> <p>23 not reprimanded her. Whatever was going</p> <p>24 on at that time, she felt free enough. I</p> <p>25 would never in 10 zillion years do that</p> |
| <p style="text-align: right;">Page 135</p> <p>1 MARJORIE PHILLIPS</p> <p>2 conclusion. They never, they never</p> <p>3 called me in. And so this was lingering.</p> <p>4 And I believe that their</p> <p>5 failure to take action is what led to</p> <p>6 this incident. And I told Natacha that.</p> <p>7 And she said no, I don't think that. I</p> <p>8 don't think that at all. No.</p> <p>9 And I was like what? You don't</p> <p>10 think that. Are you freaking kidding me.</p> <p>11 I didn't say that in that way. I was</p> <p>12 like shocked. One plus one is two, and</p> <p>13 she says, no, I don't think that one has</p> <p>14 anything to do with the other.</p> <p>15 I said she's retaliating</p> <p>16 because of this case, because nothing is</p> <p>17 being done and it's been going on, this</p> <p>18 investigation is never ending. Nothing</p> <p>19 has happened. This is a clear case of</p> <p>20 retaliation. I was so upset. And she</p> <p>21 kept saying to me, no, I don't think so.</p> <p>22 I don't see how you make the connection.</p> <p>23 That's what she said. That was what</p> <p>24 Natacha said. Clearly, clearly</p> <p>25 discrimination and retaliation. Clearly.</p> | <p style="text-align: right;">Page 137</p> <p>1 MARJORIE PHILLIPS</p> <p>2 or act like that with anyone, with</p> <p>3 anyone.</p> <p>4 When you go to work, no one has</p> <p>5 the expectation of coming to work and</p> <p>6 being threatened to be killed. And</p> <p>7 because this Affirmative Action case was</p> <p>8 hovering over all of our heads, which at</p> <p>9 the time I can say in my mind, it will</p> <p>10 take as long as it will take. I asked</p> <p>11 Deliwe about it a couple of times. She</p> <p>12 said they are still working on it. I</p> <p>13 don't know how long these things take. I</p> <p>14 don't know. So I wasn't hurrying it</p> <p>15 along. I did ask about it on a couple of</p> <p>16 occasions, but I didn't get angry about</p> <p>17 it.</p> <p>18 But Marilyn had to live with</p> <p>19 this uncertainty, her and Mary, every</p> <p>20 day, because there was no resolution.</p> <p>21 And Marilyn cracked. She just went off</p> <p>22 on me. She told me she was tired, I am</p> <p>23 tired of your fucking shit. In my face.</p> <p>24 Foaming at the mouth. Telling me she's</p> <p>25 going to fucking kill me. Retaliation,</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 MARJORIE PHILLIPS</p> <p>2 discrimination. Never saw her behave</p> <p>3 like that with any white person.</p> <p>4 Q. Did she use any racial slurs</p> <p>5 during the outburst?</p> <p>6 A. No, she did not.</p> <p>7 Q. And, you know, just to take a</p> <p>8 step back, other than the three-fifths</p> <p>9 comment, are you aware of Ms. Barton</p> <p>10 making any other racially -- any other</p> <p>11 remarks that you consider to be racially</p> <p>12 disparaging?</p> <p>13 A. Marilyn has said things that --</p> <p>14 yes, Marilyn has said things that I</p> <p>15 thought were racially insensitive. She</p> <p>16 wasn't talking to me, I overheard her</p> <p>17 saying things that were just, I just</p> <p>18 shook my head. Because we're all in the</p> <p>19 space together, so if one person is</p> <p>20 talking, you can almost hear everybody's</p> <p>21 conversation, unless you're whispering.</p> <p>22 Yes. So the answer is yes.</p> <p>23 Q. What were those remarks?</p> <p>24 A. Well, one that I can remember</p> <p>25 off the top of my head was the incident</p> | <p style="text-align: right;">Page 140</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I don't know if this would</p> <p>3 count, I don't know if this would count,</p> <p>4 but I remember Umilta was sharing</p> <p>5 something about a member of her family</p> <p>6 got accepted into some wonderful</p> <p>7 fantastic program, maybe they were a</p> <p>8 doctor or doctoral program, I don't</p> <p>9 remember, but it was an amazing</p> <p>10 opportunity, so she was sharing this.</p> <p>11 And Marilyn had a habit of -- let me</p> <p>12 rephrase this. Marilyn went onto her</p> <p>13 computer and typed up something to verify</p> <p>14 what Umilta had just told her, like she</p> <p>15 didn't believe Umilta. She didn't</p> <p>16 believe what she said. So she went on</p> <p>17 Google and did something there. And she</p> <p>18 was like, oh, yeah.</p> <p>19 Like who does that, you share</p> <p>20 something, some good news with your</p> <p>21 colleagues, and someone doesn't believe</p> <p>22 it. And so she had to verify. Umilta</p> <p>23 was insulted. Umilta was insulted.</p> <p>24 Q. Other than those two incidents,</p> <p>25 is there anything else that springs to</p> |
| <p style="text-align: right;">Page 139</p> <p>1 MARJORIE PHILLIPS</p> <p>2 with, she wasn't talking to me, with the</p> <p>3 black face. There were some incidents in</p> <p>4 the news, in the media, about black face.</p> <p>5 I think it was -- I really don't</p> <p>6 remember. It may have been one of the</p> <p>7 designers. I don't remember. I just</p> <p>8 know that it had to do with black face,</p> <p>9 you know. The caricature. The racially</p> <p>10 insensitive denigrating discriminating</p> <p>11 black face. And she was having a</p> <p>12 discussion with someone else in the</p> <p>13 office. I heard them saying something</p> <p>14 about black face. They were kind of</p> <p>15 giggling about it. All I heard -- then I</p> <p>16 knew, I heard that that is what they were</p> <p>17 talking about. And they were giggling</p> <p>18 about it.</p> <p>19 I don't find anything funny</p> <p>20 about that. But I wasn't in the</p> <p>21 conversation. She wasn't talking to me.</p> <p>22 So I just, I didn't say anything. I</p> <p>23 didn't say anything.</p> <p>24 Q. Other than that comment,</p> <p>25 anything else that springs to mind?</p> | <p style="text-align: right;">Page 141</p> <p>1 MARJORIE PHILLIPS</p> <p>2 mind?</p> <p>3 A. Looking for incidents?</p> <p>4 Incidents that happened over the years</p> <p>5 with Marilyn, I can't recall at this</p> <p>6 moment.</p> <p>7 Q. Do you recall when the black</p> <p>8 face incident occurred?</p> <p>9 A. Well, I was still in the</p> <p>10 office. So now it would have been 2019,</p> <p>11 because I didn't leave until 2019. So it</p> <p>12 would have been 2018, 2019.</p> <p>13 Q. Was it before or after you</p> <p>14 filed your internal Affirmative Action</p> <p>15 complaint?</p> <p>16 A. I think it was after, but I</p> <p>17 can't be sure.</p> <p>18 Q. Did you raise this issue with</p> <p>19 Deliwe?</p> <p>20 A. No, because she wasn't talking</p> <p>21 to me.</p> <p>22 Q. What do you mean she wasn't</p> <p>23 talking to you?</p> <p>24 A. She wasn't speaking directly to</p> <p>25 me, so what, you know, no. So the answer</p> |

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| <p style="text-align: right;">Page 142</p> <p>1 MARJORIE PHILLIPS</p> <p>2 is no.</p> <p>3 Q. The same question with Umilta,</p> <p>4 the incident, for lack of a better term,</p> <p>5 with Umilta, did you report that to the</p> <p>6 Affirmative Action Office?</p> <p>7 A. Did I report the incident that</p> <p>8 happened with Umilta to Affirmative</p> <p>9 Action? No, I did not.</p> <p>10 Q. Did she?</p> <p>11 A. Did what?</p> <p>12 Q. Do you know if Umilta reported</p> <p>13 it to Affirmative Action?</p> <p>14 A. I do not know.</p> <p>15 Q. So you brought this incident to</p> <p>16 the attention of human resources, did you</p> <p>17 file any sort of complaint with FIT</p> <p>18 public safety or security?</p> <p>19 A. Yes, I did.</p> <p>20 Q. Did you file a police report?</p> <p>21 A. Yes, I did.</p> <p>22 Q. Okay. Did you end up pressing</p> <p>23 charges?</p> <p>24 A. Against Marilyn?</p> <p>25 Q. Yes.</p> | <p style="text-align: right;">Page 144</p> <p>1 MARJORIE PHILLIPS</p> <p>2 She spoke with Marilyn before she spoke</p> <p>3 with me, so she already knew about it.</p> <p>4 And she said Marilyn had informed her</p> <p>5 about what happened. That she felt that</p> <p>6 it was totally unacceptable. And that,</p> <p>7 you know, she apologized, and this is the</p> <p>8 type of behavior that is completely</p> <p>9 unacceptable.</p> <p>10 Q. Did she say anything else?</p> <p>11 A. That was pretty much it.</p> <p>12 Q. Did you say anything in</p> <p>13 response?</p> <p>14 A. I told her everything that</p> <p>15 happened, as I just described to you. I</p> <p>16 acted it out. I told her. Because I</p> <p>17 didn't know what Marilyn had said to her.</p> <p>18 And I told her that I felt like Marilyn</p> <p>19 was retaliating, and that it was</p> <p>20 discrimination. And I really didn't --</p> <p>21 she didn't ask me a whole lot of</p> <p>22 questions. Marilyn didn't ask me a whole</p> <p>23 lot of questions. She just said that it</p> <p>24 was unacceptable and that this kind of</p> <p>25 behavior, that they were not going to put</p> |
| <p style="text-align: right;">Page 143</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I filed a police report, yes.</p> <p>3 Q. Did the police end up pursuing</p> <p>4 charges against Ms. Barton?</p> <p>5 A. No, because they told me that</p> <p>6 this wasn't something that they could</p> <p>7 file charges for.</p> <p>8 Q. Did you tell Dean Davis about</p> <p>9 this incident?</p> <p>10 A. They told me if it happened</p> <p>11 again, that I could come back and charges</p> <p>12 could be filed, if it happens again.</p> <p>13 Q. Got it, okay. Did you inform</p> <p>14 Dean Davis about this incident?</p> <p>15 A. Which incident are you</p> <p>16 referring to?</p> <p>17 Q. The incident with Ms. Barton.</p> <p>18 I am circling back to the May 2019</p> <p>19 incident.</p> <p>20 A. Oh, yes, yes, I did. Yes.</p> <p>21 Q. How did you inform her about</p> <p>22 the incident?</p> <p>23 A. She called me into her office.</p> <p>24 And Marilyn had gone into her office</p> <p>25 first, and so she already knew about it.</p> | <p style="text-align: right;">Page 145</p> <p>1 MARJORIE PHILLIPS</p> <p>2 up with this kind of behavior. It was</p> <p>3 very short. It was maybe five minutes.</p> <p>4 Ten minutes, maybe. It was short.</p> <p>5 MR. TAUSTER: Craig, can you</p> <p>6 just bring back up FIT number 2.</p> <p>7 Sorry, not FIT number 2, Exhibit 2.</p> <p>8 Yup. Very good. I am just</p> <p>9 going to scroll down here. Sorry,</p> <p>10 first let's look at Exhibit number 1</p> <p>11 for a second.</p> <p>12 Q. So Ms. Phillips, just really</p> <p>13 quick, take a look at paragraph 25, I've</p> <p>14 just scrolled to it, and just confirm for</p> <p>15 me that we are discussing the same</p> <p>16 incident here.</p> <p>17 A. Number 25, yes.</p> <p>18 Q. Okay. So now referring back to</p> <p>19 your interrogatory responses at Exhibit</p> <p>20 2, our interrogatory number 6 asked you</p> <p>21 to identify each and every individual</p> <p>22 whom you believe may have knowledge or</p> <p>23 information concerning the events alleged</p> <p>24 in paragraph 25 of the complaint,</p> <p>25 correct?</p> |

37 (Pages 142 - 145)

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| <p style="text-align: right;">Page 146</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So can you tell me why</p> <p>4 you included Anton Baptiste on this list?</p> <p>5 A. Because I learned later on that</p> <p>6 he had seen what happened.</p> <p>7 Q. Did you ever discuss the</p> <p>8 incident with Anton?</p> <p>9 A. Anton saw the incident. So</p> <p>10 when I was going to public safety to make</p> <p>11 a report, Anton and Umilta were in the</p> <p>12 office and I told them that, you know,</p> <p>13 you tell people where you are going. And</p> <p>14 I told them I was going to make an</p> <p>15 official complaint. And Anton said,</p> <p>16 you're better than me. Because if</p> <p>17 somebody would have done that to me, I</p> <p>18 would not have a job. You're much better</p> <p>19 than me.</p> <p>20 Q. Fair enough.</p> <p>21 A. And I saw --</p> <p>22 Q. Apologies, continue.</p> <p>23 A. I saw the way she was yelling</p> <p>24 and screaming and standing over you and</p> <p>25 talking to you. I mean, his comment was</p> | <p style="text-align: right;">Page 148</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. What about Kristina Johnson?</p> <p>3 A. Kristina Johnson is the</p> <p>4 chairperson -- not the chair, the</p> <p>5 Chancellor of the SUNY colleges. And I</p> <p>6 felt so, like I wasn't getting -- I</p> <p>7 didn't feel protected. I felt so</p> <p>8 vulnerable and I was afraid to go to</p> <p>9 work. I felt like I was going into an</p> <p>10 office every day with a racist supervisor</p> <p>11 and a racist colleague and I had to go to</p> <p>12 work. And I just felt unprotected. I</p> <p>13 wasn't sure what Marilyn was going to do</p> <p>14 every day. I didn't know if she was</p> <p>15 going to follow me home. I didn't know</p> <p>16 if she was going to kill me. I didn't</p> <p>17 know if she had a weapon. I didn't know</p> <p>18 what to expect. And I didn't feel, I</p> <p>19 didn't feel protected by FIT. I know</p> <p>20 what the words, but I did not feel</p> <p>21 protected. I felt as though they were --</p> <p>22 that I was experiencing discrimination,</p> <p>23 retaliation, and the college was not</p> <p>24 doing anything about it because I was</p> <p>25 afraid. I was afraid. I was afraid</p> |
| <p style="text-align: right;">Page 147</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that if it had been him, it would have</p> <p>3 been different. It would have been a</p> <p>4 different outcome.</p> <p>5 Q. Other than the day it happened,</p> <p>6 did you discuss the incident with Anton</p> <p>7 again?</p> <p>8 A. I don't believe so. I don't</p> <p>9 believe so.</p> <p>10 Q. Why did you list that Henry</p> <p>11 Wallace would have knowledge of this</p> <p>12 incident?</p> <p>13 A. Because he, I learned later,</p> <p>14 afterwards, that he and Anton were</p> <p>15 looking in the office when it was</p> <p>16 happening. She was so loud and it was</p> <p>17 just, she was cursing and so abusive and</p> <p>18 so vile, her behavior was so crazy, that</p> <p>19 you could hear it and they heard it. And</p> <p>20 Henry and Anton had heard it and saw it</p> <p>21 and witnessed it, I learned after.</p> <p>22 Q. Did you ever speak with Henry</p> <p>23 about the incident?</p> <p>24 A. No, I don't believe so. I</p> <p>25 don't believe so.</p> | <p style="text-align: right;">Page 149</p> <p>1 MARJORIE PHILLIPS</p> <p>2 every single day. I mean, it never</p> <p>3 stopped.</p> <p>4 I am still afraid. I'm still</p> <p>5 afraid. I am still afraid to go to work.</p> <p>6 I am still afraid I have to see her. I</p> <p>7 am still afraid. Every day I don't know</p> <p>8 what's going to happen. I don't know if</p> <p>9 she's going to go off on me again. If</p> <p>10 she is going to kill me. I don't know</p> <p>11 what to expect from Marilyn Barton.</p> <p>12 So at the time I was so broken.</p> <p>13 I was so broken. I didn't know what to</p> <p>14 do. I didn't know who to turn to. So I</p> <p>15 wrote a letter to the SUNY chair --</p> <p>16 Chancellor, Chancellor. And I told her</p> <p>17 that I didn't feel safe at FIT. And that</p> <p>18 the incident that occurred, occurred</p> <p>19 because FIT had taken no steps to protect</p> <p>20 me. FIT took no steps to resolve this</p> <p>21 incident which led to this outburst,</p> <p>22 which led to Marilyn Barton threatening</p> <p>23 to kill my life.</p> <p>24 So I explained everything to</p> <p>25 her in a letter. I felt that I needed to</p> |

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| <p style="text-align: right;">Page 150</p> <p>1 MARJORIE PHILLIPS</p> <p>2 go to the top and let them know. I just</p> <p>3 had to go outside of FIT. I felt so</p> <p>4 vulnerable every day.</p> <p>5 MR. TAUSTER: Craig, you might</p> <p>6 as well throw both of these up there.</p> <p>7 Can you throw 12 and 13 up there. FIT</p> <p>8 12 and 13.</p> <p>9 MR. JONES: 12 is going to be</p> <p>10 Exhibit 8.</p> <p>11 (Exhibit 8, e-mail from Marjorie</p> <p>12 Phillips to Kristina Johnson, was so</p> <p>13 marked for identification, as of this</p> <p>14 date.)</p> <p>15 MR. JONES: And 13 is loading</p> <p>16 now, which will be Exhibit 9.</p> <p>17 (Exhibit 9, Response from SUNY,</p> <p>18 was so marked for identification, as</p> <p>19 of this date.)</p> <p>20 MR. JONES: They both posted,</p> <p>21 which one would you like up on the</p> <p>22 screen?</p> <p>23 MR. TAUSTER: Put them up in</p> <p>24 order. I want to ask her about 8 and</p> <p>25 then ask her about 9 really quick.</p> | <p style="text-align: right;">Page 152</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I see that.</p> <p>3 Q. Is FIT's ability to take</p> <p>4 disciplinary action against employees</p> <p>5 limited by a collective bargaining</p> <p>6 agreement?</p> <p>7 A. I don't know.</p> <p>8 Q. Let me ask you this, are you a</p> <p>9 member of a union at FIT?</p> <p>10 A. Yes, I am.</p> <p>11 Q. And is your employment governed</p> <p>12 by a collective bargaining agreement?</p> <p>13 A. I guess so, yes.</p> <p>14 Q. Have you ever reviewed that</p> <p>15 collective bargaining agreement?</p> <p>16 A. Generally, yes.</p> <p>17 Q. Are you aware if it has any</p> <p>18 provisions in there regarding</p> <p>19 disciplinary actions, discharge,</p> <p>20 et cetera?</p> <p>21 MR. SELLS: Objection. It calls</p> <p>22 for a legal conclusion.</p> <p>23 Q. You can answer.</p> <p>24 A. I'm not aware.</p> <p>25 Q. Okay. Are you aware if FIT has</p> |
| <p style="text-align: right;">Page 151</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. JONES: Sure. You have</p> <p>3 control.</p> <p>4 MR. TAUSTER: Thank you.</p> <p>5 Q. Ms. Phillips, just to confirm,</p> <p>6 is this, when you refer to the e-mail</p> <p>7 that you sent to Ms. Johnson, is this</p> <p>8 that e-mail?</p> <p>9 A. Yeah, because it was only one.</p> <p>10 Q. Okay. And did you receive a</p> <p>11 response from SUNY?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Okay. And referring to Exhibit</p> <p>14 9, is that the response that you received</p> <p>15 from SUNY?</p> <p>16 A. Yeah. There was only one, so</p> <p>17 it has to be it.</p> <p>18 Q. And do you see here in the</p> <p>19 third paragraph down where SUNY said that</p> <p>20 they can assure you that a thorough</p> <p>21 investigation was conducted and</p> <p>22 appropriate action is being taken</p> <p>23 pursuant to the terms and conditions of</p> <p>24 the relative collective bargaining</p> <p>25 agreements?</p> | <p style="text-align: right;">Page 153</p> <p>1 MARJORIE PHILLIPS</p> <p>2 any procedure that it's required to take</p> <p>3 under the CBA before disciplining or</p> <p>4 discharging an employee?</p> <p>5 A. Can you repeat your question?</p> <p>6 Q. Sure. Are you aware if there</p> <p>7 is any procedure under the CBA or</p> <p>8 otherwise that FIT has to take before it</p> <p>9 can discipline or discharge an employee?</p> <p>10 A. I am not aware.</p> <p>11 Q. So is it fair to say then that</p> <p>12 the reference to being pursuant to the</p> <p>13 terms and conditions of the relevant</p> <p>14 collective bargaining agreements, you are</p> <p>15 not directly aware of what provisions may</p> <p>16 have been at issue?</p> <p>17 MR. SELLS: Objection. There</p> <p>18 are multiple parts to that question.</p> <p>19 I ask that you rephrase it.</p> <p>20 Q. If you understand it, you can</p> <p>21 answer, Ms. Phillips.</p> <p>22 MR. SELLS: No, no, no. You</p> <p>23 asked multiple questions in one, so</p> <p>24 she can't answer it. If you want it</p> <p>25 read back, you can, David. But you</p> |

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| <p style="text-align: right;">Page 154</p> <p>1 MARJORIE PHILLIPS</p> <p>2 asked multiple things in that</p> <p>3 question. So which one is she</p> <p>4 answering?</p> <p>5 Q. Are you aware of the terms and</p> <p>6 conditions of the relevant collective</p> <p>7 bargaining agreements that are being</p> <p>8 referenced in this letter?</p> <p>9 A. No.</p> <p>10 Q. Okay. Let's circle back to the</p> <p>11 interrogatory responses. Why do you</p> <p>12 allege that Isolina Perez has knowledge</p> <p>13 of this incident?</p> <p>14 A. Because she was my union</p> <p>15 representative. That's who I went to in</p> <p>16 the union.</p> <p>17 Q. Did you have any discussions</p> <p>18 with Isolina about the incident?</p> <p>19 A. Yes, I told Isolina everything.</p> <p>20 Q. What did she tell you?</p> <p>21 A. She suggested that I write</p> <p>22 everything up. Put it in a timeline.</p> <p>23 And we would schedule an appointment with</p> <p>24 Affirmative Action.</p> <p>25 Q. And did you speak with</p> | <p style="text-align: right;">Page 156</p> <p>1 MARJORIE PHILLIPS</p> <p>2 I filed a police report. She told -- I</p> <p>3 am pretty certain that, because I did</p> <p>4 that relatively quickly, she asked me --</p> <p>5 she wanted to be involved in the</p> <p>6 discussions with HR, you know, to be</p> <p>7 there along with me. It was sort of like</p> <p>8 my attorney, the union to some degree was</p> <p>9 like my attorney before I had an</p> <p>10 attorney. And she would be there to</p> <p>11 support and represent me.</p> <p>12 Q. Did you discuss with her at all</p> <p>13 the possible disciplinary actions that</p> <p>14 might be taken?</p> <p>15 A. Yes. Yes. She told me -- yes,</p> <p>16 I did. Yes, I did.</p> <p>17 Q. What did you discuss?</p> <p>18 A. I just assumed that Marilyn</p> <p>19 would be fired after the incident. And I</p> <p>20 believe that Isolina was under the same</p> <p>21 impression, that Marilyn would be fired.</p> <p>22 We were both under the impression that,</p> <p>23 you know, if you threaten to kill</p> <p>24 someone, and you attack and assault</p> <p>25 someone in the workplace, that that would</p> |
| <p style="text-align: right;">Page 155</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Affirmative Action about the incident?</p> <p>3 A. Yes, I did.</p> <p>4 Q. What else did you discuss or do</p> <p>5 with Isolina Perez regarding this</p> <p>6 incident?</p> <p>7 A. Regarding this incident,</p> <p>8 Isolina was my go-to person. You know, I</p> <p>9 spoke more to Isolina than I did anyone</p> <p>10 else at FIT, because Isolina actually</p> <p>11 took an interest from the very beginning</p> <p>12 when I went to her and explained to her</p> <p>13 what I was going through or what I was</p> <p>14 dealing with, she took an interest.</p> <p>15 And so, she, you know, we have</p> <p>16 the right to go to the union and you get</p> <p>17 a union representative, and Isolina was</p> <p>18 the union representative for me. So I</p> <p>19 shared everything that I was going</p> <p>20 through and I let her direct and guide</p> <p>21 me.</p> <p>22 Q. What did Isolina tell you about</p> <p>23 the incident?</p> <p>24 A. Isolina felt that it was</p> <p>25 completely outrageous. She asked me had</p> | <p style="text-align: right;">Page 157</p> <p>1 MARJORIE PHILLIPS</p> <p>2 be considered workplace violence. And</p> <p>3 that would be grounds for a termination.</p> <p>4 So we both were on the same</p> <p>5 page in terms of that. We both had the</p> <p>6 same understanding and belief that</p> <p>7 Marilyn would be terminated. And Isolina</p> <p>8 was involved in conversations that I was</p> <p>9 not involved in. A few that -- as a</p> <p>10 union representative. And she told me a</p> <p>11 few things that I didn't know, just to</p> <p>12 keep me informed about what was going on</p> <p>13 behind the scenes.</p> <p>14 Q. What were those few things that</p> <p>15 she told you?</p> <p>16 A. Well, she explained to me</p> <p>17 that -- let me get it right, because I</p> <p>18 just kept asking her and telling her that</p> <p>19 Marilyn and Mary had retaliated against</p> <p>20 me for this Affirmative Action case. And</p> <p>21 that the message that was being sent to</p> <p>22 the others in my immediate department was</p> <p>23 that if you file an Affirmative Action</p> <p>24 case, that this is what could happen to</p> <p>25 you. This is what happens. That you can</p> |

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| <p style="text-align: right;">Page 158</p> <p>1 MARJORIE PHILLIPS</p> <p>2 be attacked. You can be assaulted in the</p> <p>3 office. And threatened to kill somebody,</p> <p>4 somebody could threaten to kill you and</p> <p>5 the college would, in essence, do nothing</p> <p>6 to protect you, because I was put in this</p> <p>7 position as a result of filing the</p> <p>8 Affirmative Action case.</p> <p>9 And so Isolina was of the same</p> <p>10 opinion. I told her why would I go to</p> <p>11 them for help if they are going to turn</p> <p>12 around and the college, and I say Mary</p> <p>13 Davis, Marilyn Barton, that's the</p> <p>14 college, and retaliate because I filed a</p> <p>15 complaint. So I couldn't understand how</p> <p>16 they allowed this to happen when the</p> <p>17 whole point for me to go to them was for</p> <p>18 help. I was telling them that I was</p> <p>19 being discriminated against. And that</p> <p>20 because of this formal complaint that I</p> <p>21 filed, that it had even gotten worse.</p> <p>22 And now I am afraid to come to work every</p> <p>23 day because I don't know what is going to</p> <p>24 happen.</p> <p>25 I need a job. I need to have a</p> | <p style="text-align: right;">Page 160</p> <p>1 MARJORIE PHILLIPS</p> <p>2 ask another question, can we take a</p> <p>3 break, it's 2 o'clock?</p> <p>4 MR. TAUSTER: Let's take the</p> <p>5 lunch break now.</p> <p>6 Actually, Derek, can we go</p> <p>7 through another couple of minutes, I</p> <p>8 just want to push through on this line</p> <p>9 of questioning, because something -- I</p> <p>10 just realized that I don't think she</p> <p>11 actually answered my last question.</p> <p>12 MR. SELLS: I just said to</p> <p>13 finish your line of questioning,</p> <p>14 David.</p> <p>15 Q. So one thing I didn't hear in</p> <p>16 that response, and maybe I missed it,</p> <p>17 what were the things that you didn't know</p> <p>18 that Isolina told you?</p> <p>19 A. One of the things that I didn't</p> <p>20 definitely remember was I was asking</p> <p>21 her -- I asked Deliwe a couple of times,</p> <p>22 you know, how close are we to this being</p> <p>23 wrapped up. And there was never any</p> <p>24 clear date. And Isolina and I were</p> <p>25 talking kind of about the same thing.</p> |
| <p style="text-align: right;">Page 159</p> <p>1 MARJORIE PHILLIPS</p> <p>2 job. I had to have a job. I can't quit</p> <p>3 my job, but I am afraid. I am in fear</p> <p>4 every single day to come to work to see</p> <p>5 Marilyn Barton because I did not know</p> <p>6 what she was going to do and I did not</p> <p>7 feel that Mary was supporting both of us.</p> <p>8 I felt that Mary was supporting Marilyn.</p> <p>9 And that is what I had to walk into every</p> <p>10 single day.</p> <p>11 I had to look forward to going</p> <p>12 to work every day and seeing and being in</p> <p>13 the office space with a supervisor and a</p> <p>14 colleague who were in cahoots. They knew</p> <p>15 what happened and did nothing. Mary did</p> <p>16 nothing to make me feel better. Nothing.</p> <p>17 She sided with Marilyn. She never -- as</p> <p>18 a matter of fact, she stepped back and</p> <p>19 she let everybody else take over. She</p> <p>20 had that ten-minute conversation with me</p> <p>21 on the day of, and she never said another</p> <p>22 word about it. Not to offer any comfort</p> <p>23 at all. None whatsoever. So she sided</p> <p>24 with Marilyn.</p> <p>25 MR. SELLS: David, before you</p> | <p style="text-align: right;">Page 161</p> <p>1 MARJORIE PHILLIPS</p> <p>2 And Isolina said that she was in a</p> <p>3 meeting and Jack Oliva, the vice</p> <p>4 president of academic affairs, told them</p> <p>5 to wrap this up. Get this over with. He</p> <p>6 wanted to know when this -- wrap it up.</p> <p>7 Get this over with. I am tired of</p> <p>8 hearing about it.</p> <p>9 And so Isolina said that he was</p> <p>10 surprised, it sounded like he was</p> <p>11 surprised to hear that the investigation</p> <p>12 was still going on and that it had not</p> <p>13 been wrapped up. And somehow Umlita's</p> <p>14 name came up, I don't know how. And she</p> <p>15 told me that Jack Oliva said that Umlita</p> <p>16 Allsop could not be objective.</p> <p>17 Q. Anything else that Isolina told</p> <p>18 you?</p> <p>19 A. She tried to keep me informed</p> <p>20 about what she knew, which was not very</p> <p>21 much than what I knew. But she</p> <p>22 ultimately felt they were going to side</p> <p>23 with Marilyn. And she told me that.</p> <p>24 Q. And did you speak with her --</p> <p>25 withdrawn. Just two more questions about</p> |

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| <p style="text-align: right;">Page 162</p> <p>1 MARJORIE PHILLIPS</p> <p>2 this interrogatory response. I think</p> <p>3 it's just two quick ones.</p> <p>4 Why do you allege that Arlene</p> <p>5 Spivack had knowledge about this</p> <p>6 incident?</p> <p>7 A. Because we spoke about it. I</p> <p>8 talked to her.</p> <p>9 Q. Who is Arlene Spivack?</p> <p>10 A. She's the executive assistant</p> <p>11 of the president.</p> <p>12 Q. What did you discuss with her</p> <p>13 about the incident?</p> <p>14 A. I told her the whole incident,</p> <p>15 everything from beginning to end. I told</p> <p>16 her what happened. Everything that I</p> <p>17 described to you, I told Arlene. And I</p> <p>18 told her that I didn't feel safe. I was</p> <p>19 afraid to go to work every day. I was</p> <p>20 afraid of what Marilyn was going to do</p> <p>21 next. I felt that was being retaliated</p> <p>22 against. Discrimination. Retaliation.</p> <p>23 Q. And did she say anything in</p> <p>24 response?</p> <p>25 A. She said that she was surprised</p> | <p style="text-align: right;">Page 164</p> <p>1 MARJORIE PHILLIPS</p> <p>2 of -- not sort of, she was very</p> <p>3 confrontational with me, and I didn't</p> <p>4 understand where that was coming from,</p> <p>5 because I didn't know her. She didn't</p> <p>6 know me. And she was very</p> <p>7 confrontational. And so, you know, this</p> <p>8 all led me to feel unsupported,</p> <p>9 retaliation, discrimination, retaliation,</p> <p>10 discrimination. I just felt like, I felt</p> <p>11 like alone. I felt like alone. I didn't</p> <p>12 know who I could trust. I didn't know if</p> <p>13 anyone really cared to hear anything from</p> <p>14 me. Just me having a conversation or</p> <p>15 sharing, explaining with whomever I was</p> <p>16 talking to at FIT seemed to be something</p> <p>17 that they weren't really interested in.</p> <p>18 Even if it was your role to</p> <p>19 have these conversations, to, you know,</p> <p>20 have a discussion about it, I didn't feel</p> <p>21 as if they were really interested. And I</p> <p>22 just felt that if the roles were</p> <p>23 reversed, and I had done to Marilyn what</p> <p>24 she did to me, I am certain that I would</p> <p>25 have been fired. I may have even been</p> |
| <p style="text-align: right;">Page 163</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that Marilyn had done something like</p> <p>3 that. And she also said that -- because</p> <p>4 I was talking about Marilyn should be</p> <p>5 terminated. You know, that's the clear</p> <p>6 solution. And she said that she felt</p> <p>7 that both of us should -- what were her</p> <p>8 exact words? That we both should be</p> <p>9 reprimanded or something of that nature.</p> <p>10 Q. The last part of this line and</p> <p>11 then we'll break.</p> <p>12 Why do you allege that Jennifer</p> <p>13 Loturco had knowledge of this incident?</p> <p>14 A. Because I spoke with her too.</p> <p>15 I had the same conversation with her as</p> <p>16 well.</p> <p>17 Q. And what did she say to you in</p> <p>18 response?</p> <p>19 A. Well, she didn't really seem</p> <p>20 interested. She didn't -- she didn't,</p> <p>21 she didn't seem very interested. She was</p> <p>22 kind of, all right. I just didn't feel</p> <p>23 like she was interested in what I was</p> <p>24 saying at all. She was rushing me</p> <p>25 through the conversation. She was sort</p> | <p style="text-align: right;">Page 165</p> <p>1 MARJORIE PHILLIPS</p> <p>2 arrested. I am certain. There is no</p> <p>3 doubt in my mind that if the roles were</p> <p>4 reversed, it would have been a different</p> <p>5 situation altogether. And I was so hurt</p> <p>6 and so offended that here I am, sort of</p> <p>7 fighting for people to -- I almost felt</p> <p>8 like they didn't believe it. Even though</p> <p>9 there was a witness, even though -- the</p> <p>10 reaction was astounding. This vile</p> <p>11 treatment. This assault. She threatened</p> <p>12 my life in the office. She told me she</p> <p>13 was tired of my shit. Fuck you and fuck</p> <p>14 the horse that you rode in on. Fuck you.</p> <p>15 And, you know, I felt like I was the only</p> <p>16 one who was outraged.</p> <p>17 Isolina was equally outraged,</p> <p>18 but I felt so alone. It's like you tell</p> <p>19 somebody that somebody tried to kill you,</p> <p>20 they said, oh, I'm sorry to hear that.</p> <p>21 That's what I felt. I felt out there in</p> <p>22 a situation where I was alone.</p> <p>23 And the message that was being</p> <p>24 sent to my colleagues, this is what</p> <p>25 happens. Poster child. Scarlet letter</p> |

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| <p style="text-align: right;">Page 166</p> <p>1 MARJORIE PHILLIPS</p> <p>2 over my head. My forehead, my chest.</p> <p>3 This is what happens when you file an</p> <p>4 Affirmative Action complaint and they</p> <p>5 retaliate against you.</p> <p>6 What is happening to Marjorie,</p> <p>7 this is what happens. So why would</p> <p>8 anybody come behind me and file a</p> <p>9 complaint when they see that this is what</p> <p>10 happens when you do that? No one. No</p> <p>11 one will file any cases having seen that.</p> <p>12 No one. No one would want to deal with</p> <p>13 that. No one would want to go through</p> <p>14 that. No one.</p> <p>15 And I thought these offices</p> <p>16 that are put in place to take your</p> <p>17 complaints to file a report, I thought</p> <p>18 that that was the remedy. I never, I</p> <p>19 never thought that I would be the one</p> <p>20 with the scarlet letter at the end of all</p> <p>21 of this. That I would be ostracized and</p> <p>22 isolated from my colleagues and</p> <p>23 co-workers.</p> <p>24 MR. TAUSTER: Okay. Let's go</p> <p>25 off the record.</p> | <p style="text-align: right;">Page 168</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Afternoon Session</p> <p>3 3:14 p.m.</p> <p>4 MARJORIE PHILLIPS,</p> <p>5 having been previously duly sworn, was</p> <p>6 examined and testified further as</p> <p>7 follows:</p> <p>8 EXAMINATION (Continued)</p> <p>9 BY MR. TAUSTER:</p> <p>10 Q. Ms. Phillips, during the last</p> <p>11 break, did you review any documents?</p> <p>12 A. No. I ate, I was starving.</p> <p>13 Q. Fair enough. Referring back to</p> <p>14 the May 25th, 2019 incident. To what</p> <p>15 knowledge, withdrawn --</p> <p>16 MR. SELLS: Hold on, hold on.</p> <p>17 David, I think you meant May 16th.</p> <p>18 MR. TAUSTER: The May 2019</p> <p>19 incident.</p> <p>20 MR. SELLS: I think you said</p> <p>21 May 25th, I want the record to be</p> <p>22 clear.</p> <p>23 MR. TAUSTER: Yes.</p> <p>24 Q. With respect to that incident,</p> <p>25 what actions did FIT take to address that</p> |
| <p style="text-align: right;">Page 167</p> <p>1 MARJORIE PHILLIPS</p> <p>2 (Off the record.)</p> <p>3 (Lunch recess: 2:19 p.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 169</p> <p>1 MARJORIE PHILLIPS</p> <p>2 incident?</p> <p>3 A. I cannot be certain, because</p> <p>4 when I asked, originally I thought that I</p> <p>5 was going to be part -- I was told that I</p> <p>6 was going to be part of the</p> <p>7 investigation, so I waited to be called</p> <p>8 in and I was never called in. And then</p> <p>9 when I learned about the results of the</p> <p>10 investigation, I wasn't told very much.</p> <p>11 Not even enough to tell you anything. I</p> <p>12 wasn't told very much. I wasn't told</p> <p>13 anything, really.</p> <p>14 Q. Were you interviewed by anyone?</p> <p>15 A. Like the next day, when I</p> <p>16 reported it. At that time.</p> <p>17 Q. Yes. Who conducted the</p> <p>18 interview?</p> <p>19 A. Natacha in HR, her last name is</p> <p>20 Unelus, I believe. I don't know how to</p> <p>21 pronounce it.</p> <p>22 Q. That's U-n-e-l-u-s. Do you</p> <p>23 know if FIT conducted an investigation?</p> <p>24 A. They said that they did.</p> <p>25 Cynthia said they did.</p> |

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| <p style="text-align: right;">Page 170</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did you talk to any of your</p> <p>3 co-workers about it?</p> <p>4 A. About the investigation?</p> <p>5 Q. Yes.</p> <p>6 A. The only one that was even</p> <p>7 interested, besides myself, was Umilta,</p> <p>8 and neither one of us had any</p> <p>9 information.</p> <p>10 Q. Do you know, was Umilta</p> <p>11 interviewed in connection with any</p> <p>12 investigation?</p> <p>13 A. I don't know. I do not know.</p> <p>14 I take that back, she gave a statement.</p> <p>15 Q. Do you know if any other</p> <p>16 employees in the office gave statements?</p> <p>17 A. I don't know.</p> <p>18 Q. Do you know if any disciplinary</p> <p>19 action was taken against Marilyn Barton?</p> <p>20 A. I was told that they did, but</p> <p>21 they wouldn't share with me what it was.</p> <p>22 Q. So you were told that she was</p> <p>23 disciplined, but you were not told what</p> <p>24 it was?</p> <p>25 A. Right.</p> | <p style="text-align: right;">Page 172</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Yes, yes. In case I wasn't</p> <p>3 clear. Do you recall when?</p> <p>4 A. Somewhere around, let me think,</p> <p>5 yeah, somewhere around the time --</p> <p>6 because I went on a leave. I took a</p> <p>7 leave of absence. And somewhere before</p> <p>8 the time that I actually went back, I</p> <p>9 asked -- before I returned, I asked the</p> <p>10 dean.</p> <p>11 Q. How did she respond?</p> <p>12 A. She told me that, no, she had</p> <p>13 never considered it. It was not a viable</p> <p>14 option, because, and that would mean that</p> <p>15 she would have to move.</p> <p>16 Q. Do you think that was accurate?</p> <p>17 A. Her statement was accurate?</p> <p>18 Q. Yes.</p> <p>19 A. Her statement told me that she</p> <p>20 chose to keep Marilyn and to move me.</p> <p>21 That's what she told me. Because I asked</p> <p>22 her, did she ever consider, the question</p> <p>23 you said, did she ever consider that</p> <p>24 Marilyn move, and she said no, she did</p> <p>25 not, for those reasons.</p> |
| <p style="text-align: right;">Page 171</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did you hear from anybody what</p> <p>3 it might have been?</p> <p>4 A. No, I did not.</p> <p>5 Q. Okay. You touched -- we</p> <p>6 touched on this a bit earlier, did FIT</p> <p>7 move your desk?</p> <p>8 A. No, they did not. Physically</p> <p>9 move the desk or move me?</p> <p>10 Q. Withdrawn. Did FIT move your</p> <p>11 seating location?</p> <p>12 A. Yes, they did.</p> <p>13 Q. And did FIT move Defendant</p> <p>14 Barton?</p> <p>15 A. No, they did not.</p> <p>16 Q. Okay. Did you ever ask</p> <p>17 Defendant Davis if she ever considered</p> <p>18 moving Ms. Barton?</p> <p>19 A. Yes, I did. I am Ms. Phillips,</p> <p>20 yes. That sounded like you called me Ms.</p> <p>21 Barton.</p> <p>22 Q. No, I was saying did you ever</p> <p>23 speak with Ms. Davis about whether she</p> <p>24 ever considered moving Ms. Barton?</p> <p>25 A. Yes, I did.</p> | <p style="text-align: right;">Page 173</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did you testify earlier that</p> <p>3 Ms. Barton directly supported Dean Davis</p> <p>4 at that time?</p> <p>5 A. You mean as her supervisor?</p> <p>6 Q. Yes.</p> <p>7 A. Yes.</p> <p>8 Q. And do you think that might</p> <p>9 have played any role in the decision of</p> <p>10 who got moved or who did not?</p> <p>11 A. I didn't think that it should.</p> <p>12 MR. SELLS: Objection. Calls</p> <p>13 for speculation.</p> <p>14 Q. Did FIT take any other</p> <p>15 action -- withdrawn.</p> <p>16 Do you know if FIT took any</p> <p>17 other actions to address this incident?</p> <p>18 A. I don't know. I don't know</p> <p>19 what those actions were.</p> <p>20 Q. Do you know if FIT hosted any</p> <p>21 sort of radical empathy workshop in the</p> <p>22 School of Graduate Studies?</p> <p>23 A. Yes, they had one.</p> <p>24 Q. Do you know if this is in</p> <p>25 response to your complaint?</p> |

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| <p style="text-align: right;">Page 174</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. It appeared to be.</p> <p>3 Q. Did you attend this workshop?</p> <p>4 A. I did.</p> <p>5 Q. Did you stay for the whole</p> <p>6 time?</p> <p>7 A. I did not.</p> <p>8 Q. Why not?</p> <p>9 A. Because I felt uncomfortable, I</p> <p>10 felt uncomfortable. And I just couldn't,</p> <p>11 I couldn't stay in the room any longer,</p> <p>12 so I left. I was afraid to be in the</p> <p>13 room with Marilyn. I stayed for as long</p> <p>14 as I could, and then I just couldn't do</p> <p>15 it anymore so I left.</p> <p>16 Q. I'm curious, was Ms. Barton</p> <p>17 doing anything during the meeting that</p> <p>18 made you uncomfortable?</p> <p>19 A. The fact that I was in the room</p> <p>20 with her made me uncomfortable. When</p> <p>21 someone threatens to kill you, you don't</p> <p>22 choose to be in the room with that</p> <p>23 person. That was not my choice.</p> <p>24 Q. Are there any circumstances</p> <p>25 where you would be comfortable being in</p> | <p style="text-align: right;">Page 176</p> <p>1 MARJORIE PHILLIPS</p> <p>2 work every day, if she was terminated.</p> <p>3 Then I would feel safe.</p> <p>4 Q. My question is, any</p> <p>5 circumstances where you would feel safe</p> <p>6 in the same room as Ms. Barton?</p> <p>7 A. No. No. I still feel very</p> <p>8 uncomfortable.</p> <p>9 Q. Other than the empathy workshop</p> <p>10 that we just discussed, is there any</p> <p>11 other steps that you're aware of that FIT</p> <p>12 took to address this incident?</p> <p>13 A. No, I am not aware.</p> <p>14 Q. Did FIT hire an independent</p> <p>15 mediator to conduct any sort of conflict</p> <p>16 resolution process between you and Ms.</p> <p>17 Barton?</p> <p>18 A. Yes, yes, they did. Yes, they</p> <p>19 did.</p> <p>20 Q. And who did FIT retain as the</p> <p>21 mediator?</p> <p>22 A. A psychiatrist by the name of</p> <p>23 Kirkland Vaughn.</p> <p>24 Q. Did FIT ask you to participate</p> <p>25 in this mediation?</p> |
| <p style="text-align: right;">Page 175</p> <p>1 MARJORIE PHILLIPS</p> <p>2 the same room as Ms. Barton?</p> <p>3 A. Comfortable? I don't know if</p> <p>4 comfortable is the right word. If I felt</p> <p>5 protected.</p> <p>6 Q. Were you alone with Ms. Barton</p> <p>7 in the room for this workshop?</p> <p>8 A. No.</p> <p>9 Q. So did you not feel protected?</p> <p>10 A. No, I did not.</p> <p>11 Q. What would make you feel</p> <p>12 protected from Ms. Barton?</p> <p>13 A. At that time, I was told that</p> <p>14 we would not be in the same room, the</p> <p>15 same space at the same time. And that</p> <p>16 didn't happen.</p> <p>17 Q. Okay. But just as a general</p> <p>18 matter, I guess what I am asking is what,</p> <p>19 in your mind, are the steps that FIT</p> <p>20 could take to make you feel safe in the</p> <p>21 same room as Ms. Barton?</p> <p>22 A. At that time, then and now?</p> <p>23 Q. Then and now, yes.</p> <p>24 A. For her to be terminated. Then</p> <p>25 I would feel fully secure with going to</p> | <p style="text-align: right;">Page 177</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes, they did.</p> <p>3 Q. And did you participate?</p> <p>4 A. Yes, I did.</p> <p>5 Q. When did the mediation take</p> <p>6 place?</p> <p>7 A. In November, I believe it was,</p> <p>8 after I came back from the leave of</p> <p>9 absence.</p> <p>10 Q. Do you think that the mediation</p> <p>11 was useful?</p> <p>12 A. No, I do not.</p> <p>13 Q. Why not?</p> <p>14 A. Because the mediation -- I</p> <p>15 didn't feel like I needed to be in</p> <p>16 mediation. I didn't do anything wrong</p> <p>17 and so I didn't feel that I needed to</p> <p>18 speak to a mental health professional. I</p> <p>19 was the one who was attacked. My life</p> <p>20 was threatened. So I didn't see why it</p> <p>21 was necessary for me to speak to a mental</p> <p>22 health professional.</p> <p>23 Q. Is it fair to say that even</p> <p>24 before this incident, you and Ms. Barton</p> <p>25 had had some friction in the workplace?</p> |

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| <p style="text-align: right;">Page 178</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. No, I do not. Before the</p> <p>3 incident, no, we did not, other than --</p> <p>4 Q. You --</p> <p>5 A. We didn't speak, we didn't</p> <p>6 talk, so there was no friction. There</p> <p>7 was this looming something that were</p> <p>8 going on, but there were no words that</p> <p>9 were exchanged.</p> <p>10 Q. I am talking about even before</p> <p>11 you filed the internal Affirmative Action</p> <p>12 complaint. I mean you made several</p> <p>13 allegations of racial discrimination</p> <p>14 against Ms. Barton, correct?</p> <p>15 A. I went to Affirmative Action</p> <p>16 against her one time. She was part of</p> <p>17 that complaint. So your question to me</p> <p>18 is, was there any friction between</p> <p>19 Marilyn Barton and I before the</p> <p>20 complaint?</p> <p>21 Q. Yes.</p> <p>22 A. Everything that I told you</p> <p>23 previously. The incidents that I've told</p> <p>24 you.</p> <p>25 Q. So you don't think there would</p> | <p style="text-align: right;">Page 180</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. There was a letter of</p> <p>3 recommendation that went to, that he</p> <p>4 sent -- let me think about. So the</p> <p>5 answer is yes, there was a letter. It</p> <p>6 was not very much that he was</p> <p>7 recommending. I don't remember it</p> <p>8 exactly without seeing it again, but from</p> <p>9 my recollection, he felt, he suggested to</p> <p>10 them that I didn't feel heard. Marjorie</p> <p>11 Phillips did not feel heard, and his</p> <p>12 suggestion to them was to do whatever was</p> <p>13 necessary or whatever they could so that</p> <p>14 this employee was made to feel like she</p> <p>15 was being heard.</p> <p>16 Q. And is it fair to say that</p> <p>17 there was no action that FIT could have</p> <p>18 taken that would have made you feel heard</p> <p>19 other than terminating Ms. Barton's</p> <p>20 employment?</p> <p>21 A. Correct.</p> <p>22 Q. Okay.</p> <p>23 A. Correct. Correct.</p> <p>24 Q. When is the last time that you</p> <p>25 interacted with Ms. Barton?</p> |
| <p style="text-align: right;">Page 179</p> <p>1 MARJORIE PHILLIPS</p> <p>2 have been any use to you and Ms. Barton</p> <p>3 having a mediation to the extent that she</p> <p>4 was going to remain in the workplace?</p> <p>5 A. No. Because she attacked me.</p> <p>6 She assaulted me. It went way beyond</p> <p>7 anything when she threatened to kill me.</p> <p>8 Now it's no longer just trying to figure</p> <p>9 out how you're going to work together</p> <p>10 productively. She threatened my life. I</p> <p>11 feared my life. I was afraid to go to</p> <p>12 work. I was afraid of her. I am afraid</p> <p>13 of her. I am still -- I am afraid of</p> <p>14 her, today I am afraid to go to work and</p> <p>15 encounter her, even today.</p> <p>16 She took it beyond a normal</p> <p>17 disagreement in the workplace. She</p> <p>18 threatened to kill me. Workplace</p> <p>19 violence. No one has ever threatened to</p> <p>20 kill me, ever. And I take it seriously.</p> <p>21 I took that threat, and I still take that</p> <p>22 threat today very seriously.</p> <p>23 Q. Do you know if Dr. Vaughn has</p> <p>24 made any sort of recommendation in</p> <p>25 connection with the mediation?</p> | <p style="text-align: right;">Page 181</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. We returned to school on, I</p> <p>3 think it was August 16th, I did. My</p> <p>4 first time back. And I saw her, the</p> <p>5 chairperson and I for fashion textile</p> <p>6 studies had a meeting with the dean. And</p> <p>7 so we saw her. And -- kind of. She</p> <p>8 wasn't there when I arrived, but she was</p> <p>9 there when I left.</p> <p>10 And then I needed, on a</p> <p>11 different occasion, I needed to take care</p> <p>12 of some orders, a whole bunch of things,</p> <p>13 I had a huge project that I had to take</p> <p>14 care of that happened over the summer,</p> <p>15 over the time that I was on vacation and</p> <p>16 I needed to get into a room, I needed the</p> <p>17 key to get into that room. So I had to</p> <p>18 go to Marilyn and get the key from the</p> <p>19 space where she works. You know, I asked</p> <p>20 her if she would leave the key somewhere,</p> <p>21 put the key somewhere. And she didn't do</p> <p>22 it. So I had to go into the space and I</p> <p>23 had to see her against my will. I had</p> <p>24 to -- it didn't happen in the same day.</p> <p>25 I had to go home. I had to pray on it.</p> |

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| <p style="text-align: right;">Page 182</p> <p>1 MARJORIE PHILLIPS</p> <p>2 I had to think about it. I had to get</p> <p>3 ready to do it. I had to prepare myself</p> <p>4 to see her. It didn't happen in the same</p> <p>5 day. I had to prepare myself. And</p> <p>6 that's what I did.</p> <p>7 Q. Did you ask anybody else if</p> <p>8 they could just get the key for you?</p> <p>9 A. No, because there really was no</p> <p>10 one else that I could ask in that office</p> <p>11 other than her. I had called Anton when</p> <p>12 I came back, and Anton, called him, I</p> <p>13 sent him an e-mail. He never returned my</p> <p>14 call so I couldn't reach out to him. And</p> <p>15 he's really the only other person. No</p> <p>16 one works in that office besides the</p> <p>17 dean.</p> <p>18 Q. Okay. You said that this</p> <p>19 meeting on August 16th was with the dean.</p> <p>20 Was this Dean Davis?</p> <p>21 A. No. Dean Davis is gone.</p> <p>22 Q. So who is the current dean?</p> <p>23 A. Brooke Carlson, C-a-r-l-s-o-n.</p> <p>24 Q. Brooke Carlson. So when is the</p> <p>25 last time that you interacted with Ms.</p> | <p style="text-align: right;">Page 184</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. JONES: This will be Exhibit</p> <p>3 10. It's loading now. Here you go.</p> <p>4 Q. Ms. Phillips, do you recognize</p> <p>5 this document?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Okay. And what is this</p> <p>8 document?</p> <p>9 A. This is the document that came</p> <p>10 in October of 2019.</p> <p>11 Q. And is this an investigation</p> <p>12 report from Ms. Kekana?</p> <p>13 A. It is an investigation report</p> <p>14 that happened after the incident on</p> <p>15 May 16th that happened after I had asked</p> <p>16 her, and never got anything, after I had</p> <p>17 met with her to get the conclusion in</p> <p>18 person, face to face, on July either 1st</p> <p>19 or July 8th.</p> <p>20 When we met, we were in the</p> <p>21 office together for maybe less than 20</p> <p>22 minutes. She told me the conclusion, but</p> <p>23 I never saw a document. I asked her for</p> <p>24 the document. I never saw a document. I</p> <p>25 asked her for a document several times</p> |
| <p style="text-align: right;">Page 183</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Davis?</p> <p>3 A. Interacted, before the fashion</p> <p>4 show.</p> <p>5 Q. What was that interaction?</p> <p>6 A. I don't recall. There were a</p> <p>7 few e-mails went back and forth between</p> <p>8 she and I. And I didn't see her. There</p> <p>9 were e-mails. We were interacting via</p> <p>10 e-mail before the fashion show. And then</p> <p>11 I saw her on the day of the fashion show,</p> <p>12 but we didn't interact.</p> <p>13 Q. Now, turning back to the 2018</p> <p>14 Affirmative Action complaint, did Ms.</p> <p>15 Kekana issue a report at the conclusion</p> <p>16 of her investigation?</p> <p>17 A. No.</p> <p>18 Q. Are you certain that she did</p> <p>19 not issue a report?</p> <p>20 A. I am positive.</p> <p>21 MR. TAUSTER: Craig, can you</p> <p>22 throw FIT 9 up on the screen.</p> <p>23 (Exhibit 10, Investigation</p> <p>24 report, was so marked for</p> <p>25 identification, as of this date.)</p> | <p style="text-align: right;">Page 185</p> <p>1 MARJORIE PHILLIPS</p> <p>2 afterwards. Never a document. It</p> <p>3 surfaced October 2019. June, July,</p> <p>4 August, September, five months after the</p> <p>5 incident. Five months, August,</p> <p>6 September, October, three months after my</p> <p>7 meeting with her. And it did not -- she</p> <p>8 didn't lay all of this out to me. She</p> <p>9 didn't. The meeting was less than 20</p> <p>10 minutes. So, no, she didn't share this</p> <p>11 with me until October after the incident.</p> <p>12 After I was assaulted. After I was</p> <p>13 threatened. And after I had met with her</p> <p>14 office. Months after. Months after.</p> <p>15 And after I had asked her numerous times.</p> <p>16 Q. But I just want to clarify</p> <p>17 something. You met with her, did you say</p> <p>18 in July of 2019?</p> <p>19 A. Correct.</p> <p>20 Q. And during that meeting, did</p> <p>21 she tell you the conclusion of her</p> <p>22 investigation?</p> <p>23 A. Yes, she did.</p> <p>24 Q. And what did she tell you that</p> <p>25 conclusion was?</p> |

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| <p style="text-align: right;">Page 186</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. She told me that the conclusion</p> <p>3 was that my complaints did not rise to</p> <p>4 the level of discrimination and that</p> <p>5 loosely, loosely, and that all of these</p> <p>6 incidents were really microaggressions,</p> <p>7 they were really microaggressions.</p> <p>8 Q. Now, just to clarify, this</p> <p>9 investigation covered the subjects that</p> <p>10 were raised in your 2018 Affirmative</p> <p>11 Action complaint, correct?</p> <p>12 A. Correct.</p> <p>13 Q. I want to turn your attention</p> <p>14 back to --</p> <p>15 MR. TAUSTER: Craig, can you</p> <p>16 give me back control.</p> <p>17 MR. JONES: You should have</p> <p>18 control.</p> <p>19 Q. I want to refer you to</p> <p>20 paragraph 21 of the complaint.</p> <p>21 A. 21?</p> <p>22 Q. Yup.</p> <p>23 A. Yes.</p> <p>24 Q. So how did Ms. Cowan's alleged</p> <p>25 comments in 2014 create a hostile work</p> | <p style="text-align: right;">Page 188</p> <p>1 MARJORIE PHILLIPS</p> <p>2 who threatened to take my life, every</p> <p>3 single day. And I am being forced to</p> <p>4 work with this person. To interact with</p> <p>5 this person every day, from that day</p> <p>6 until last week.</p> <p>7 Then, during, after, I am still</p> <p>8 being expected to work with Marilyn</p> <p>9 Barton, a person who threatened my life</p> <p>10 at my job. Who could have killed me.</p> <p>11 Who threatened to kill me. That's not a</p> <p>12 very comfortable position. It's very</p> <p>13 uncertain. I don't know what she's</p> <p>14 capable of. She showed me what she is</p> <p>15 capable of. So that makes it so</p> <p>16 uncertain. Everything is uncertain. I</p> <p>17 don't know what to expect from her so I</p> <p>18 expect the worst. I expect the worst</p> <p>19 from her. And it makes me feel very,</p> <p>20 very unprotected.</p> <p>21 Q. So I just want to clarify</p> <p>22 something about the allegations in this</p> <p>23 case. Can you review paragraph 17 of the</p> <p>24 complaint. I have it up on the screen.</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">Page 187</p> <p>1 MARJORIE PHILLIPS</p> <p>2 environment in 2018?</p> <p>3 A. Because discrimination is</p> <p>4 hostile. Discrimination is hostile. To</p> <p>5 an African-American, discrimination is a</p> <p>6 hostile action. And so when you have to</p> <p>7 go to work with someone who you feel is</p> <p>8 discriminating against you, it makes you</p> <p>9 feel very uncomfortable. It makes the</p> <p>10 environment feel hostile. That was one</p> <p>11 of many. But yes, discrimination is</p> <p>12 hostile. Discrimination equals hostile.</p> <p>13 Q. What do you mean when you</p> <p>14 allege that your safety was put at risk?</p> <p>15 A. Marilyn threatened to kill me.</p> <p>16 And I was informed that we were going to</p> <p>17 continue to work together. That she was</p> <p>18 not going to be terminated. I thought</p> <p>19 that she -- I assumed that when you</p> <p>20 threaten to kill someone that you lose</p> <p>21 your job, automatically. That was --</p> <p>22 that was my assumption. And when that</p> <p>23 didn't happen, I was so shocked that now</p> <p>24 I have to go to work every day and deal</p> <p>25 with a person who threatened to kill me,</p> | <p style="text-align: right;">Page 189</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Okay. So I want to clarify,</p> <p>3 are you alleging that Marilyn Barton</p> <p>4 stated that African-Americans are</p> <p>5 three-fifths of a human being or that she</p> <p>6 stated that African-Americans were</p> <p>7 considered to be three-fifths of a human</p> <p>8 being?</p> <p>9 A. The way I heard it, she said</p> <p>10 African-Americans are three-fifths of a</p> <p>11 human being.</p> <p>12 Q. Well, hold on a second. Sorry,</p> <p>13 I just want to refer you back to --</p> <p>14 MR. TAUSTER: Craig, can you</p> <p>15 bring back up Exhibit 6.</p> <p>16 Q. So I want you to read the first</p> <p>17 paragraph under second incident of</p> <p>18 occurrence and I want you to tell me</p> <p>19 which allegation is correct in this</p> <p>20 lawsuit.</p> <p>21 A. Say that again.</p> <p>22 Q. Withdrawn. In your internal</p> <p>23 Affirmative Action complaint, you allege,</p> <p>24 "She," Ms. Barton, "was telling the</p> <p>25 student aide that African-Americans were</p> |

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| <p style="text-align: right;">Page 190</p> <p>1 MARJORIE PHILLIPS</p> <p>2 considered three-fifths of a human</p> <p>3 being," correct?</p> <p>4 A. That's what she said. That's</p> <p>5 what she told me after.</p> <p>6 Q. Which allegation is correct?</p> <p>7 A. I walked in. What I heard with</p> <p>8 my own ears, African-Americans are</p> <p>9 three-fifths of a human being.</p> <p>10 Q. Then why did you say in your</p> <p>11 internal complaint that she said</p> <p>12 African-Americans were considered</p> <p>13 three-fifths of a human being, and then</p> <p>14 you may even go forward and say, "What</p> <p>15 are you talking about that</p> <p>16 African-Americans were once considered</p> <p>17 three-fifths of a human being," correct?</p> <p>18 A. Because that's what she said.</p> <p>19 That's what she said that she said to try</p> <p>20 to clarify. That was her clarification.</p> <p>21 Q. Can you review the second</p> <p>22 incident of occurrence in your</p> <p>23 March 23rd, 2018 EEO internal complaint</p> <p>24 and tell me where you say that Marilyn</p> <p>25 Barton said to you that African-Americans</p> | <p style="text-align: right;">Page 192</p> <p>1 MARJORIE PHILLIPS</p> <p>2 we were. African-Americans were</p> <p>3 considered three-fifths -- I don't</p> <p>4 know -- I am not understanding. Maybe</p> <p>5 from your perspective it's not the same.</p> <p>6 From my perspective it is the same. From</p> <p>7 your perspective maybe it isn't the same.</p> <p>8 But from my perspective, as an</p> <p>9 African-American, it is the same. It is</p> <p>10 absolutely the same. And you're</p> <p>11 splitting hairs. You're splitting then,</p> <p>12 now. That's what she said. And I am not</p> <p>13 splitting hairs. I am not. I am not</p> <p>14 doing that. That's what she said. She</p> <p>15 used that language, which was offensive</p> <p>16 to me and it's offensive to</p> <p>17 African-Americans and I was insulted. I</p> <p>18 was insulted.</p> <p>19 Q. Do you think that there would</p> <p>20 be a difference between saying</p> <p>21 historically under the three-fifths</p> <p>22 compromise, African-Americans were</p> <p>23 considered three-fifths of a human being</p> <p>24 as opposed to African-Americans are</p> <p>25 three-fifths of a human being, do you see</p> |
| <p style="text-align: right;">Page 191</p> <p>1 MARJORIE PHILLIPS</p> <p>2 are three-fifths of a human being.</p> <p>3 A. She didn't say it to me.</p> <p>4 Q. Okay. So you tell me where you</p> <p>5 reported to internal EEOC that Marilyn</p> <p>6 Barton said that African-Americans are</p> <p>7 three-fifths of a human being.</p> <p>8 A. As I stated, when I walked in</p> <p>9 the office I heard what I heard. Her</p> <p>10 clarification that African-Americans, as</p> <p>11 if it were something in the past.</p> <p>12 Q. I am going to scroll down a</p> <p>13 little bit here. So look here at the</p> <p>14 bottom of this page where you talk about</p> <p>15 "The following Monday when I came into</p> <p>16 the office, I made an appointment to</p> <p>17 speak to the Dean Mary Davis." You</p> <p>18 allege "When I told her what Marilyn said</p> <p>19 to the student aide Julia about</p> <p>20 African-Americans were considered</p> <p>21 three-fifths of a human being," so does</p> <p>22 that refresh your recollection about what</p> <p>23 you allege that Marilyn Barton said about</p> <p>24 the three-fifths compromise?</p> <p>25 A. She said we were. That means</p> | <p style="text-align: right;">Page 193</p> <p>1 MARJORIE PHILLIPS</p> <p>2 any difference between those two?</p> <p>3 A. I see the difference, but there</p> <p>4 is talk that you have in the office and</p> <p>5 there is talk that you do not have in an</p> <p>6 office environment. You do not stand</p> <p>7 around the water cooler saying that</p> <p>8 African-Americans were, are, whatever,</p> <p>9 three-fifths of a human being. That's</p> <p>10 just not the conversation that you have</p> <p>11 in the office workplace. You're</p> <p>12 insulting people. And you, maybe from</p> <p>13 your perspective that's not how you see</p> <p>14 it. That's how I see it. That's how I</p> <p>15 received it. And I was offended.</p> <p>16 Q. But you did testify earlier --</p> <p>17 I'm sorry.</p> <p>18 A. You go ahead.</p> <p>19 Q. I thought I heard somebody</p> <p>20 talking there. But you testified earlier</p> <p>21 that you did not hear anything prior to</p> <p>22 Marilyn Barton making the three-fifths</p> <p>23 remark, correct?</p> <p>24 A. Correct. That's correct.</p> <p>25 Q. Take a look at your allegation,</p> |

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1 MARJORIE PHILLIPS
 2 paragraph 23 of the complaint.
 3 A. Yes.
 4 Q. So how do you know that
 5 Defendant Barton received an upgrade?
 6 A. Because Umilta told me.
 7 Q. Okay. What do you mean here
 8 when you say upgrade?
 9 A. Upgrade is the language that's
 10 used at FIT for a raise and a promotion.
 11 They don't say raises and promotion, they
 12 say an upgrade. But that's what an
 13 upgrade means.
 14 Q. Are you alleging that FIT
 15 treated you less favorably than Ms.
 16 Barton?
 17 A. Yes.
 18 Q. Why do you believe you were
 19 treated less favorably than Ms. Barton?
 20 A. For beginners, I had a
 21 conversation with Dean Mary Davis about
 22 an upgrade and we agreed that there would
 23 be an upgrade. We went as far as
 24 discussing what the new role, the new
 25 responsibilities would include, what they

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1 MARJORIE PHILLIPS
 2 would include. What it would look like.
 3 What the future, how the future in this
 4 role would unfold. We discussed the
 5 salary, along with upgrade, there is a
 6 promotion, and then there is a salary
 7 that goes along with it. So there is the
 8 salary schedule and then there is the
 9 raise that coincides with it. So if you
 10 move up in steps. If you're step 95,
 11 let's say, for example. If you're step
 12 95, and you get an upgrade from 95 to 99,
 13 which would be four steps up, you would
 14 get four steps up in salary, in monetary
 15 value. So your salary would go from a 95
 16 to a 99.
 17 So we discussed this. Mary and
 18 I discussed this. And we discussed the
 19 possible steps that I could consider.
 20 And so we had a full discussion about it.
 21 The only thing that we didn't really
 22 finalize. You know there was more to be
 23 done. But we sort of stopped because we
 24 didn't know -- she didn't come up with
 25 and I couldn't come up with a title

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1 MARJORIE PHILLIPS
 2 associated with this upgrade. So I told
 3 her we decided, she told me, I told her,
 4 that I would have a conversation with HR
 5 to come up with a title that was
 6 commensurate with the upgrade. So that
 7 meant like a little bit of dialogue with
 8 HR to come up with something that would
 9 be in line with what Mary and I agreed
 10 upon.
 11 Q. And you testified earlier that
 12 you stopped pursuing this because you
 13 believed you were being retaliated
 14 against after the 2018 complaint,
 15 correct?
 16 A. Not I believe, I was being
 17 retaliated against, because she stopped
 18 talking about it. She didn't -- you
 19 know, we were all, we were in agreement.
 20 And there was no angst, because this had
 21 happened before the Affirmative Action
 22 complaint. And then the Affirmative
 23 Action complaint happened and she
 24 changed. And she was no longer proactive
 25 about making this happen for me. There

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1 MARJORIE PHILLIPS
 2 was no more discussion about it at all.
 3 And I was already uncomfortable because
 4 of the lawsuit -- of the Affirmative
 5 Action complaint. So it just became very
 6 uncomfortable. And you can't get an
 7 upgrade without your supervisor.
 8 Q. Who initiated the upgrade
 9 discussions in 2017?
 10 A. Let me think about it. I felt
 11 like it was mutual. Let me think. I
 12 feel like it was mutual, because from
 13 what I remember, I was taking on and she
 14 was giving me more and more
 15 responsibility, like different things
 16 that she wanted to see happen in the
 17 School of Graduate Studies. She's like,
 18 Marjorie, let's just talk about this. I
 19 see you as doing A, B and C and D. And,
 20 you know, this is the way that this rolls
 21 out. I can see this happening. You
 22 would be responsible for this. And you
 23 would be responsible for that.
 24 And I had already started -- it
 25 wasn't like -- everything wasn't in the

50 (Pages 194 - 197)

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| <p style="text-align: right;">Page 198</p> <p>1 MARJORIE PHILLIPS</p> <p>2 future. I had already started doing some</p> <p>3 of these things. I was pretty open to</p> <p>4 doing more and more and more. So I think</p> <p>5 from my memory, because I can't say for</p> <p>6 sure, she offered more responsibility.</p> <p>7 And before I even came to the meeting, I</p> <p>8 was taking on more responsibility. So I</p> <p>9 guess she wanted to really make it firm,</p> <p>10 to put it in writing. To give me a new</p> <p>11 title. To give me new responsibilities</p> <p>12 and to explain to me how she wanted, how</p> <p>13 she saw the future in this new role.</p> <p>14 Q. And then after you filed the</p> <p>15 2018 Affirmative Action complaint, you</p> <p>16 didn't send her any ticklers, any</p> <p>17 e-mails, anything to try to push this</p> <p>18 forward?</p> <p>19 A. No, I waited for her.</p> <p>20 Q. Turning your attention to</p> <p>21 paragraph 50 of the complaint. Right</p> <p>22 there. Just tell me when you've had a</p> <p>23 chance to read it.</p> <p>24 (Witness reviews document.)</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 200</p> <p>1 MARJORIE PHILLIPS</p> <p>2 other administrators, white</p> <p>3 administrators that came in, then she</p> <p>4 started having meetings excluding Umilta</p> <p>5 and I. Meetings that normally we all</p> <p>6 were a part of.</p> <p>7 Q. And you attribute this to what</p> <p>8 exactly?</p> <p>9 A. I didn't understand, neither of</p> <p>10 us, Umilta or I, both felt excluded from</p> <p>11 these meetings. We are all program</p> <p>12 assistants. Everyone's program is a</p> <p>13 little different. But in the past we</p> <p>14 were all in these staff meetings</p> <p>15 together. But she started having like</p> <p>16 other staff meetings that we weren't</p> <p>17 included in. That I wasn't included in.</p> <p>18 That Umilta wasn't included in.</p> <p>19 Q. Were there any other</p> <p>20 African-American employees in these staff</p> <p>21 meetings?</p> <p>22 A. No.</p> <p>23 Q. You're certain of that?</p> <p>24 A. I am positive. I know who was</p> <p>25 in the meetings.</p> |
| <p style="text-align: right;">Page 199</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. So here you allege that</p> <p>3 "Defendants treated plaintiff less</p> <p>4 favorably than similarly situated white</p> <p>5 employees in the terms and conditions of</p> <p>6 plaintiff's employment." Correct?</p> <p>7 A. Yes.</p> <p>8 Q. Are you referring to Marilyn</p> <p>9 Barton when you refer to white employees?</p> <p>10 A. Yes.</p> <p>11 Q. Are you referring to any other</p> <p>12 white employees?</p> <p>13 A. Primarily Marilyn Barton. But</p> <p>14 I felt that in addition to -- primarily</p> <p>15 Marilyn Barton, because we all worked in</p> <p>16 the office together, and I knew more of</p> <p>17 what was going on with her than people</p> <p>18 outside of the department. When she</p> <p>19 started bringing in other new people into</p> <p>20 the department, and isolating out Umilta</p> <p>21 and I.</p> <p>22 So we all started -- it started</p> <p>23 with, for example, we would all have</p> <p>24 staff meetings and it was all of us. And</p> <p>25 then as the department began to grow, the</p> | <p style="text-align: right;">Page 201</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Who was in these meetings?</p> <p>3 A. Doreen, Lynne, Michael and</p> <p>4 Ariel.</p> <p>5 Q. You said -- can you repeat</p> <p>6 those with last names, please? If you</p> <p>7 know them.</p> <p>8 A. I don't know Lynne's last name.</p> <p>9 Michael, I think his last name is</p> <p>10 Batista, I'm not really sure. Ariel</p> <p>11 Aliah. Doreen Catlin. Ariel, Lynne,</p> <p>12 Doreen -- Lynne Weidner.</p> <p>13 Q. Let me ask a bit of a broad</p> <p>14 question, because I am trying to figure</p> <p>15 out what this allegation is about. What</p> <p>16 exactly do you mean when you say that</p> <p>17 defendants treated you less favorably</p> <p>18 than similarly situated white employees</p> <p>19 in the terms and conditions of your</p> <p>20 employment?</p> <p>21 A. We are all expected to do the</p> <p>22 same job and that is to support our</p> <p>23 programs. The expectation is the same</p> <p>24 for all of us. Each program is a little</p> <p>25 bit different or a lot different but the</p> |

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| <p style="text-align: right;">Page 202</p> <p>1 MARJORIE PHILLIPS</p> <p>2 expectation is the same. If you want to</p> <p>3 know about my program, you have the same</p> <p>4 expectation of Doreen's program, Lynne's</p> <p>5 program. We are all program assistants.</p> <p>6 So when we are all meeting and then</p> <p>7 employees that come in after us, now at</p> <p>8 some point, all of a sudden it's like you</p> <p>9 break off and you start seeing them</p> <p>10 behind closed doors and you're not seeing</p> <p>11 us, rather, we're not being included in</p> <p>12 these meetings, what is one to think. We</p> <p>13 were meeting together at one time and</p> <p>14 then that stopped. That changed.</p> <p>15 Q. When did it change?</p> <p>16 A. I can't give a date as to when</p> <p>17 it changed. But what happens -- I don't</p> <p>18 want to go off on a tangent.</p> <p>19 Q. Let me ask you this. What do</p> <p>20 you mean when you say "terms and</p> <p>21 conditions of plaintiff's employment"?</p> <p>22 What were the terms and conditions that</p> <p>23 you were referring to?</p> <p>24 A. I thought that's what I was</p> <p>25 just explaining, that we were being</p> | <p style="text-align: right;">Page 204</p> <p>1 MARJORIE PHILLIPS</p> <p>2 included in meetings, how were you</p> <p>3 treated differently from similarly</p> <p>4 situated white employees in the terms and</p> <p>5 conditions of your employment?</p> <p>6 A. We were not given the same</p> <p>7 privileges. We were not given the same</p> <p>8 advantages. We were not allowed to</p> <p>9 participate in the college, in the</p> <p>10 college activities, meetings, committees,</p> <p>11 the way that our colleagues were.</p> <p>12 Knowing that I didn't get an upgrade.</p> <p>13 That's the most important thing. I am</p> <p>14 not -- I won't speak for anyone else.</p> <p>15 Q. Let me ask you this, and I</p> <p>16 don't know that you would have an answer.</p> <p>17 Do you believe you did not receive the</p> <p>18 upgrade because of discrimination or</p> <p>19 retaliation?</p> <p>20 A. Both. Discrimination and</p> <p>21 retaliation. Both. Absolutely both.</p> <p>22 Absolutely.</p> <p>23 Q. I'm sorry, please continue.</p> <p>24 A. That's it.</p> <p>25 Q. Why do you believe Dean Davis</p> |
| <p style="text-align: right;">Page 203</p> <p>1 MARJORIE PHILLIPS</p> <p>2 treated differently.</p> <p>3 Q. So other than in terms of being</p> <p>4 excluded from meetings, how were you</p> <p>5 treated differently? That's what I'm</p> <p>6 trying to figure out here.</p> <p>7 A. There was no upgrade when we</p> <p>8 clearly had an agreement to have one, to</p> <p>9 make one. Other employees were being</p> <p>10 called to, for example, Marilyn was --</p> <p>11 Mary started sending her to different</p> <p>12 meetings to participate in different</p> <p>13 meetings, and Michael Batista, outside of</p> <p>14 our department.</p> <p>15 So sometimes you participate in</p> <p>16 schoolwide meetings, let's just say,</p> <p>17 right? But she never asked us to</p> <p>18 participate in these schoolwide meetings.</p> <p>19 Marilyn participated in the schoolwide</p> <p>20 meetings. Michael participated in the</p> <p>21 schoolwide meetings, for example.</p> <p>22 Q. Just to clarify, you can't tell</p> <p>23 me when these meetings occurred, correct?</p> <p>24 A. No, I can't give you a date.</p> <p>25 Q. So other than the upgrade and</p> | <p style="text-align: right;">Page 205</p> <p>1 MARJORIE PHILLIPS</p> <p>2 discriminated against you on the basis of</p> <p>3 your race?</p> <p>4 A. Because she was not happy that</p> <p>5 I had gone to HR, to Affirmative Action</p> <p>6 to complain about her. I went on record</p> <p>7 to file a complaint about her and she</p> <p>8 wasn't happy about it. I complained</p> <p>9 about what she should have done, the</p> <p>10 actions she should have taken as the</p> <p>11 leader, what I believe she should have</p> <p>12 done as the leader of our department.</p> <p>13 Q. Did she ever make any</p> <p>14 discriminatory remarks to you?</p> <p>15 A. No, she did not.</p> <p>16 Q. Do you know if she ever made</p> <p>17 any discriminatory remarks about any</p> <p>18 other employees?</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. So you mentioned earlier</p> <p>21 steps under the CBA; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. So do you know, where were you</p> <p>24 on the step scale at this point?</p> <p>25 A. I believe that I am a 90 or a</p> |

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| <p style="text-align: right;">Page 206</p> <p>1 MARJORIE PHILLIPS</p> <p>2 91, somewhere like that.</p> <p>3 Q. Okay. Do you know, if this is</p> <p>4 not clear, let me know. Had you reached</p> <p>5 the top step of your salary scale, for</p> <p>6 lack of a better term?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know what salary</p> <p>9 schedule Ms. Barton was in as of 2019?</p> <p>10 A. I think she was a 91. I think</p> <p>11 she was a 91. I am not certain, but I</p> <p>12 think she was a 91.</p> <p>13 Q. And do you know if she was at</p> <p>14 the top step of her CBA scale?</p> <p>15 A. I don't know.</p> <p>16 Q. Is it fair to say that it's</p> <p>17 possible that any salary increase or</p> <p>18 upgrade that Barton received was because</p> <p>19 of the CBA?</p> <p>20 A. Yeah.</p> <p>21 MR. SELLS: I am going to object</p> <p>22 because that question called for</p> <p>23 speculation.</p> <p>24 Q. Ms. Phillips, prior to</p> <p>25 commencing this action, did you file a</p> | <p style="text-align: right;">Page 208</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. Did you submit any other --</p> <p>4 apologies, you said yes?</p> <p>5 A. Yes.</p> <p>6 Q. Did you submit any other</p> <p>7 documents to the EEOC other than this</p> <p>8 charge of discrimination?</p> <p>9 A. I don't recall.</p> <p>10 Q. So let's flip back to the</p> <p>11 complaint and paragraph 29. So again a</p> <p>12 broad question, but can you please</p> <p>13 explain how it is clear from the facts</p> <p>14 that you were discriminated against</p> <p>15 because of your race by FIT?</p> <p>16 A. What number are you referring</p> <p>17 to?</p> <p>18 Q. Paragraph 29.</p> <p>19 MR. SELLS: Hey, David, I am</p> <p>20 going to object. Are you asking her</p> <p>21 to repeat everything that she said?</p> <p>22 Are you saying anything other than</p> <p>23 what she already said? She testified</p> <p>24 a lot today about things she felt were</p> <p>25 discriminatory. Now you're asking her</p> |
| <p style="text-align: right;">Page 207</p> <p>1 MARJORIE PHILLIPS</p> <p>2 charge of discrimination with the EEOC?</p> <p>3 A. Yes, I did.</p> <p>4 MR. TAUSTER: Craig, can you</p> <p>5 throw up FIT Exhibit 21.</p> <p>6 (Exhibit 11, Charge of</p> <p>7 discrimination filed with EEOC, was so</p> <p>8 marked for identification, as of this</p> <p>9 date.)</p> <p>10 Q. Ms. Phillips, do you recognize</p> <p>11 this document?</p> <p>12 A. Loosely, yes.</p> <p>13 Q. Is this the charge of</p> <p>14 discrimination that you filed with the</p> <p>15 EEOC?</p> <p>16 A. I don't see -- yes, yes, yes.</p> <p>17 Q. And on the bottom left there,</p> <p>18 do you see this was digitally signed by</p> <p>19 Marjorie Phillips on August 12th, 2019?</p> <p>20 A. Yes.</p> <p>21 Q. So fair to say this is the</p> <p>22 charge of discrimination that you filed</p> <p>23 with the EEOC?</p> <p>24 A. Yes.</p> <p>25 (Witness reviews document.)</p> | <p style="text-align: right;">Page 209</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to repeat it? Is that what you want</p> <p>3 her to do?</p> <p>4 MR. TAUSTER: I guess at the end</p> <p>5 of the day, if she's saying she's</p> <p>6 relying on everything she said before,</p> <p>7 that can be her testimony here. I am</p> <p>8 trying to get her explanation of the</p> <p>9 allegation, that's all.</p> <p>10 MR. SELLS: Is there anything</p> <p>11 else other than what she testified to,</p> <p>12 that's what I am trying to find out.</p> <p>13 MR. TAUSTER: That's what I'm</p> <p>14 trying to find out. Again, she can</p> <p>15 answer the question. You know, at the</p> <p>16 end of the day, she wants to answer</p> <p>17 the question by saying it's what I</p> <p>18 told you today, that's her answer. I</p> <p>19 am not going to testify for her and</p> <p>20 neither can you.</p> <p>21 Q. So you can answer, Ms.</p> <p>22 Phillips.</p> <p>23 A. Again, it's the same answer</p> <p>24 that I have given earlier. It looks like</p> <p>25 the same question, just put a different</p> |

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| <p style="text-align: right;">Page 210</p> <p>1 MARJORIE PHILLIPS</p> <p>2 way. I really don't see that much of a</p> <p>3 difference from previous questions.</p> <p>4 Q. Okay. So continuing with this</p> <p>5 allegation, what do you mean when you say</p> <p>6 that FIT, and I am referring specifically</p> <p>7 to FIT, created a hostile work</p> <p>8 environment because of your race?</p> <p>9 A. I feel like I keep answering</p> <p>10 that question over and over again. I</p> <p>11 feel like you keep asking me that same</p> <p>12 question. I will answer it now, but I</p> <p>13 feel like I keep saying -- I feel like I</p> <p>14 am repeating myself. I will repeat</p> <p>15 myself again.</p> <p>16 FIT created a hostile work</p> <p>17 environment before, during and after, as</p> <p>18 it pertains to discrimination and</p> <p>19 retaliation. I went to AA, I filed an</p> <p>20 Affirmative Action complaint against</p> <p>21 Marilyn and all of the people that you</p> <p>22 have listed. I was attacked by and</p> <p>23 threatened by my co-worker. She</p> <p>24 threatened to kill me in the office. And</p> <p>25 she was not terminated. I was expected</p> | <p style="text-align: right;">Page 212</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. And did you mention anything to</p> <p>3 Joanne Arbuckle about an upgrade</p> <p>4 discussion or anything of that sort?</p> <p>5 A. No, I did not.</p> <p>6 Q. So fair to say that you haven't</p> <p>7 affirmatively pursued that since Dean</p> <p>8 Davis left?</p> <p>9 A. Since Dean Davis left, we have</p> <p>10 been in the middle of the COVID-19</p> <p>11 pandemic. None of us have been in the</p> <p>12 office. Over 600,000 people have died,</p> <p>13 some of whom are my family and relatives.</p> <p>14 The whole country is still in turmoil</p> <p>15 over the COVID-19 pandemic. There is a</p> <p>16 delta variant going on right now. I just</p> <p>17 returned to work two weeks ago. I</p> <p>18 haven't seen any of my colleagues since</p> <p>19 last March 16th of 2020. So, no. The</p> <p>20 COVID-19 took over everybody's life since</p> <p>21 we left the college last March. That</p> <p>22 took priority.</p> <p>23 Q. Were you still working remotely</p> <p>24 during the COVID-19 pandemic?</p> <p>25 A. Yes, I was.</p> |
| <p style="text-align: right;">Page 211</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to continue to work with her before,</p> <p>3 during and after, even until today, I am</p> <p>4 still being asked to work with a person</p> <p>5 that threatened my life and said they</p> <p>6 were going to kill me.</p> <p>7 I don't feel, didn't, don't</p> <p>8 feel then, during, or even now that I was</p> <p>9 protected until I went outside of the</p> <p>10 college and hired an attorney. I hired</p> <p>11 an attorney because I just didn't feel</p> <p>12 like the college was protecting me.</p> <p>13 Q. This may seem a little out of</p> <p>14 sequence. So Dean Davis is no longer</p> <p>15 head of the School of Graduate Studies,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. Have you had any upgrade</p> <p>19 discussions with the new dean?</p> <p>20 A. She just started about two</p> <p>21 weeks ago.</p> <p>22 Q. Was there an interim dean?</p> <p>23 A. Yes. Yes, there was.</p> <p>24 Q. Who was the interim dean?</p> <p>25 A. Joanne Arbuckle.</p> | <p style="text-align: right;">Page 213</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Do you know if anyone else at</p> <p>3 the college has received an upgrade or</p> <p>4 salary change or anything of that sort</p> <p>5 since the pandemic started?</p> <p>6 A. I do not know.</p> <p>7 Q. Okay. So I want to turn to</p> <p>8 your allegations in paragraph 37 of the</p> <p>9 complaint. Actually, apologies,</p> <p>10 paragraph 41 of the complaint.</p> <p>11 A. 41?</p> <p>12 Q. Yes.</p> <p>13 (Witness reviews document.)</p> <p>14 A. Yes.</p> <p>15 Q. What do you mean when you say</p> <p>16 that the move made you feel embarrassed</p> <p>17 and ashamed?</p> <p>18 A. That did and still does, since</p> <p>19 the incident where I was attacked, I was</p> <p>20 assaulted, I was the person who was the</p> <p>21 victim. I was moved to an inferior space</p> <p>22 away from the office that I was in. I</p> <p>23 did nothing wrong, and it gave the</p> <p>24 appearance that I had done something</p> <p>25 wrong because I was the one who was</p> |

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| <p style="text-align: right;">Page 214</p> <p>1 MARJORIE PHILLIPS</p> <p>2 moved. And I was the one who was moved</p> <p>3 to an inferior space. So I don't know</p> <p>4 what my colleagues know. I don't know</p> <p>5 what they know, what they don't know, but</p> <p>6 I know what they see. And what they see</p> <p>7 is that Marjorie was moved after an</p> <p>8 incident in the office between her and</p> <p>9 Marilyn.</p> <p>10 So just by looking from what</p> <p>11 happened, incident, Marjorie's moved,</p> <p>12 Marjorie is in an inferior space,</p> <p>13 Marjorie is disconnected from the</p> <p>14 department, Marjorie has this scarlet</p> <p>15 letter written over her chest, Marjorie</p> <p>16 did something -- Marjorie must have done</p> <p>17 something wrong. We don't know the whole</p> <p>18 story, but Marjorie must have done</p> <p>19 something wrong, just from the evidence.</p> <p>20 She had to have done something wrong,</p> <p>21 which is so far from the truth. It is</p> <p>22 not true. But that is the appearance.</p> <p>23 So I am being retaliated</p> <p>24 against once again, over and over and</p> <p>25 over and over every day, by being</p> | <p style="text-align: right;">Page 216</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that anyone who comes behind me and</p> <p>3 wants, considers, thinks about making an</p> <p>4 Affirmative Action complaint about</p> <p>5 somebody, if they are aware of this case,</p> <p>6 they are not going to do it. And they</p> <p>7 don't have to know the details. All they</p> <p>8 need to know is what they see. She was</p> <p>9 here. She was part of this office. She</p> <p>10 was part of that staff. Now she's</p> <p>11 somewhere. She's somewhere over there.</p> <p>12 We don't even know where she is. We</p> <p>13 don't even know where she is. She's been</p> <p>14 removed. And the person who threatened</p> <p>15 to kill her is still sitting in that</p> <p>16 office.</p> <p>17 You don't have to know the</p> <p>18 details. You can see with your eyes that</p> <p>19 that is not -- that's discrimination.</p> <p>20 That is discrimination when the person</p> <p>21 who was threatened, a black person who</p> <p>22 was threatened, someone was going to take</p> <p>23 my life. I didn't know whether or not I</p> <p>24 was going to leave that office that day</p> <p>25 dead or alive, and I was moved. And the</p> |
| <p style="text-align: right;">Page 215</p> <p>1 MARJORIE PHILLIPS</p> <p>2 discarded, ostracized, isolated from the</p> <p>3 space that I was in. And I was the</p> <p>4 person who was attacked. So that's what</p> <p>5 I mean.</p> <p>6 Q. I'm curious, how do you know</p> <p>7 that your co-workers have speculated</p> <p>8 about what happened?</p> <p>9 A. I was moved to another space.</p> <p>10 After the incident I was moved to an</p> <p>11 inferior space. I was removed. Marilyn</p> <p>12 stayed. The offender stayed. And</p> <p>13 nothing changed. She's still there. She</p> <p>14 was there. She is there. She was there</p> <p>15 yesterday, the last time I was in the</p> <p>16 office. There has been no change with</p> <p>17 the status of Marilyn's employment. But</p> <p>18 I was moved. I get nothing from that</p> <p>19 except that it's clear to me that that is</p> <p>20 discrimination and retaliation.</p> <p>21 Discrimination and retaliation.</p> <p>22 Retaliation because I made a</p> <p>23 complaint about several people. They</p> <p>24 didn't like it, so now they are going to</p> <p>25 make an example of Marjorie Phillips, so</p> | <p style="text-align: right;">Page 217</p> <p>1 MARJORIE PHILLIPS</p> <p>2 offender is still there today. You don't</p> <p>3 have to know the details, the optics, the</p> <p>4 visual says it all. And I can't say -- I</p> <p>5 don't know what the next African-American</p> <p>6 or the next or the next or the next who</p> <p>7 knows about this loosely, intimately,</p> <p>8 whatever they know about it, I cannot</p> <p>9 imagine that they would be running to</p> <p>10 Affirmative Action to make complaints.</p> <p>11 They're not going to do that. They're</p> <p>12 not going to do that. Because the</p> <p>13 college has made an example of what</p> <p>14 happens to a person who complains. And</p> <p>15 cries discrimination and retaliation. I</p> <p>16 am being made an example for</p> <p>17 African-Americans coming behind me. They</p> <p>18 won't say much.</p> <p>19 Q. You went on leave after the</p> <p>20 incident with Ms. Barton, correct?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And you testified earlier that</p> <p>23 you are not aware of any discipline that</p> <p>24 Ms. Barton received, correct?</p> <p>25 A. Yes, because I asked and I</p> |

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| <p style="text-align: right;">Page 218</p> <p>1 MARJORIE PHILLIPS</p> <p>2 wasn't told.</p> <p>3 Q. Would it surprise you if Ms.</p> <p>4 Barton was suspended?</p> <p>5 A. No, it wouldn't surprise me. I</p> <p>6 was loosely aware of that. The</p> <p>7 specifics, suspended could have been</p> <p>8 three days. I don't know. Suspension</p> <p>9 could have been two months. It wasn't</p> <p>10 two months. So she was suspended. Okay?</p> <p>11 For how long? I am not asking you, I am</p> <p>12 just saying.</p> <p>13 Q. And did you talk to --</p> <p>14 A. I don't know what that</p> <p>15 involved. I don't know what that</p> <p>16 involved.</p> <p>17 Q. Okay. And you never</p> <p>18 discussed -- did you ever discuss the</p> <p>19 disciplinary action with your co-workers?</p> <p>20 A. No one knew. No one knew.</p> <p>21 Umilta was asking me. I didn't know.</p> <p>22 Neither one of us knew. Neither one of</p> <p>23 us knew. She was just as much invested</p> <p>24 in this as I was.</p> <p>25 Q. Do you know if Umilta has ever</p> | <p style="text-align: right;">Page 220</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Anton is awkward and standoffish. Ariel,</p> <p>3 when she was still there, was awkward and</p> <p>4 standoffish. Doreen was awkward and</p> <p>5 standoffish when I moved over to the</p> <p>6 space.</p> <p>7 Everybody feels like -- it</p> <p>8 feels awkward for everyone when they</p> <p>9 encounter me. Like they don't know what</p> <p>10 to say. It's like a deer in headlights.</p> <p>11 They don't feel relaxed to just be who</p> <p>12 they were before this happened. They</p> <p>13 almost don't say anything. They don't</p> <p>14 say anything.</p> <p>15 Q. But you haven't discussed this</p> <p>16 specifically with any of your co-workers,</p> <p>17 correct?</p> <p>18 A. No, but the awkward and the</p> <p>19 standoffishness is not relating to me</p> <p>20 having a discussion with them. Whatever</p> <p>21 they know, whatever that is, is enough</p> <p>22 for them to stand back, to stand back.</p> <p>23 To not be the same. And I feel</p> <p>24 embarrassed because I feel punished. I</p> <p>25 feel punished. I feel punished for doing</p> |
| <p style="text-align: right;">Page 219</p> <p>1 MARJORIE PHILLIPS</p> <p>2 filed a discrimination complaint?</p> <p>3 A. I do not know.</p> <p>4 Q. Has she ever told you that she</p> <p>5 wanted to do so?</p> <p>6 A. I don't recall. I don't</p> <p>7 remember.</p> <p>8 Q. Has she ever told you that she</p> <p>9 feels dissuaded from doing so because of</p> <p>10 what happened to you?</p> <p>11 A. No, because we have not had any</p> <p>12 conversations since I've gone back, since</p> <p>13 I returned to the office, which was, you</p> <p>14 know, after the incident, after January</p> <p>15 2020. And there was two months. And</p> <p>16 then we all left for the pandemic. So,</p> <p>17 no, there was no conversation.</p> <p>18 Q. So you allege in paragraph 42</p> <p>19 of the complaint that your co-workers are</p> <p>20 now awkward and standoffish towards you</p> <p>21 and you feel ostracized, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Who is being awkward and</p> <p>24 standoffish to you?</p> <p>25 A. Well, I feel -- not I feel,</p> | <p style="text-align: right;">Page 221</p> <p>1 MARJORIE PHILLIPS</p> <p>2 what was right, for doing what the school</p> <p>3 asked and my employer. Not just the</p> <p>4 school, my employer makes this available</p> <p>5 to you. Makes this department. Gives</p> <p>6 you the opportunity to come to them when</p> <p>7 you have a situation when you feel that</p> <p>8 you need them.</p> <p>9 I took advantage of that and it</p> <p>10 worked against me. It's working against</p> <p>11 me. I feel worse now than I did before.</p> <p>12 Every day. Every day. Every day. Every</p> <p>13 day.</p> <p>14 Q. So I want to ask you a</p> <p>15 question, and it might be a difficult</p> <p>16 one, but I am really trying to parse the</p> <p>17 complaint and trying to get to the, you</p> <p>18 know, allegations here.</p> <p>19 Is there any way that you</p> <p>20 can -- is there any conduct that you</p> <p>21 attribute specifically to discrimination</p> <p>22 as opposed to retaliation and vice versa?</p> <p>23 Does that make sense to you, Ms.</p> <p>24 Phillips?</p> <p>25 A. I think so. You're asking me</p> |

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| <p style="text-align: right;">Page 222</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to separate the two and what conduct I</p> <p>3 would attribute to the discrimination?</p> <p>4 Q. Right, what you would consider</p> <p>5 to be discrimination, and what you would</p> <p>6 consider to be retaliation. And even a</p> <p>7 step further, if you want to create a box</p> <p>8 that you believe would be a little of</p> <p>9 column A and a little of column B, we can</p> <p>10 do that as well.</p> <p>11 MR. SELLS: Objection.</p> <p>12 THE WITNESS: Thank you.</p> <p>13 MR. SELLS: Calls for a legal</p> <p>14 conclusion, David. And you know that.</p> <p>15 MR. TAUSTER: No, I think I'm</p> <p>16 allowed to ask her what she feels she</p> <p>17 would attribute to discrimination</p> <p>18 versus retaliation. These are -- this</p> <p>19 is her complaint. She can answer that</p> <p>20 question.</p> <p>21 MR. SELLS: It calls for a legal</p> <p>22 conclusion.</p> <p>23 MR. TAUSTER: Okay. She can</p> <p>24 answer it.</p> <p>25 A. I don't know the legal</p> | <p style="text-align: right;">Page 224</p> <p>1 MARJORIE PHILLIPS</p> <p>2 I'm telling you, I am black. I</p> <p>3 didn't do anything. She's white. She</p> <p>4 threatened to kill me. She threatened to</p> <p>5 end my life. She told me I will fucking</p> <p>6 kill you. Over and over and over. She</p> <p>7 was in my face. Foaming at the mouth.</p> <p>8 Foam, around her mouth in my face, this</p> <p>9 close to me. Telling me she didn't give</p> <p>10 a fuck about me over and over and over</p> <p>11 and over. She put her hands on me. She</p> <p>12 assaulted me.</p> <p>13 I tried to contain the</p> <p>14 situation because I was fearful and I</p> <p>15 didn't know what was going to happen.</p> <p>16 That is clearly wrong. I don't have to</p> <p>17 keep saying it over and over again.</p> <p>18 That's wrong. That is clearly wrong.</p> <p>19 But then, as a result of it, I</p> <p>20 get moved to another space because</p> <p>21 Marilyn doesn't have to move. Marilyn</p> <p>22 works for the dean. Marilyn is a white</p> <p>23 girl. Marjorie is a black girl. Nobody</p> <p>24 cares about Marjorie. Let's just</p> <p>25 separate them. And if we -- we have to</p> |
| <p style="text-align: right;">Page 223</p> <p>1 MARJORIE PHILLIPS</p> <p>2 definition of discrimination. But I know</p> <p>3 the definition, the definition of</p> <p>4 discrimination. And, again, I feel like,</p> <p>5 I feel like you're asking me the same</p> <p>6 question over and over in really the same</p> <p>7 way.</p> <p>8 I'm not sure what I am not</p> <p>9 getting across to you where I am being</p> <p>10 treated differently. I am an</p> <p>11 African-American women. Marilyn is a</p> <p>12 white women. And I am being treated</p> <p>13 differently. I am being treated</p> <p>14 inferior. I am being treated less than.</p> <p>15 I am being treated like a criminal. I am</p> <p>16 being treated like I was the offender</p> <p>17 when I did nothing wrong. I did nothing</p> <p>18 wrong. It's like, you know, the crooked</p> <p>19 painting on the wall where you walk into</p> <p>20 the room and the painting is crooked and</p> <p>21 I keep telling you, David, your painting</p> <p>22 is crooked. And you're like, no, it's</p> <p>23 not. No, it's not. David? No, it's</p> <p>24 not. And you insist, insist, insist that</p> <p>25 it's not.</p> | <p style="text-align: right;">Page 225</p> <p>1 MARJORIE PHILLIPS</p> <p>2 separate them, so who is going to go,</p> <p>3 Marjorie is going to go. The black woman</p> <p>4 is going to go. Not the person who did</p> <p>5 something wrong.</p> <p>6 The solution, in my mind,</p> <p>7 should be the person who did something</p> <p>8 wrong should be the person who's</p> <p>9 punished. That's common sense to me, not</p> <p>10 the person who did nothing. Nothing</p> <p>11 wrong, except show up at work that day</p> <p>12 and in the workplace be threatened. Told</p> <p>13 that my life is going to be taken. I</p> <p>14 didn't know what she had. I don't know</p> <p>15 what she has tomorrow. I don't know</p> <p>16 what's going to happen tomorrow with</p> <p>17 Marilyn. I don't know what she's capable</p> <p>18 of. She's already shown me. She doesn't</p> <p>19 have to keep proving it to me. She's</p> <p>20 already shown me what she's capable of</p> <p>21 doing. So I believe her. You may not</p> <p>22 want to, I believe her. She's</p> <p>23 demonstrated what she's capable of doing.</p> <p>24 So you keep asking me over and</p> <p>25 over as if I did something wrong. It's</p> |

57 (Pages 222 - 225)

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| <p style="text-align: right;">Page 226</p> <p>1 MARJORIE PHILLIPS</p> <p>2 the same question. And I'm not sure how</p> <p>3 I can answer it any differently. I was</p> <p>4 made to suffer. I am still being made to</p> <p>5 suffer. Every single day. It is</p> <p>6 discrimination. It is retaliation.</p> <p>7 Discrimination, retaliation. That's what</p> <p>8 it is. And I don't understand why if you</p> <p>9 posed a question, you know, change a</p> <p>10 little here, tweak it here, it's the same</p> <p>11 question. I keep saying the same thing</p> <p>12 over and over again.</p> <p>13 MR. SELLS: Why don't we take a</p> <p>14 break.</p> <p>15 MR. TAUSTER: I just want to ask</p> <p>16 one more question.</p> <p>17 MR. SELLS: No, no.</p> <p>18 MR. TAUSTER: No, no, because</p> <p>19 it's right on the same line.</p> <p>20 MR. SELLS: David, come on.</p> <p>21 David, look --</p> <p>22 MR. TAUSTER: Derek, Derek, I am</p> <p>23 allowed to finish this line of</p> <p>24 questioning.</p> <p>25 MR. SELLS: You're not even on a</p> | <p style="text-align: right;">Page 228</p> <p>1 MARJORIE PHILLIPS</p> <p>2 tomorrow. David, we are going back</p> <p>3 tomorrow. Take it easy, all right.</p> <p>4 Ten minutes is not going to kill you.</p> <p>5 THE REPORTER: Off the record.</p> <p>6 (Off the record.)</p> <p>7 BY MR. TAUSTER:</p> <p>8 Q. Ms. Phillips, since I know we</p> <p>9 were going back and forth a little bit</p> <p>10 about trying to get to what I was asking.</p> <p>11 I want to ask one question and I think it</p> <p>12 might clarify this a little bit.</p> <p>13 So do you believe that if you</p> <p>14 had not made your affirmative complaint,</p> <p>15 that you would have received the upgraded</p> <p>16 issue in this complaint, in this</p> <p>17 litigation?</p> <p>18 A. Yes.</p> <p>19 Q. So is it fair to say that you</p> <p>20 were denied this upgrade as an act of</p> <p>21 retaliation rather than discrimination?</p> <p>22 A. It's both. The retaliation is</p> <p>23 a result of the discrimination. It's</p> <p>24 both, I cannot separate the two. I filed</p> <p>25 a complaint. I called them out</p> |
| <p style="text-align: right;">Page 227</p> <p>1 MARJORIE PHILLIPS</p> <p>2 line of questioning, David. You're</p> <p>3 not even on a line of questions.</p> <p>4 MR. TAUSTER: Derek, I am going</p> <p>5 to ask one more question. She can</p> <p>6 answer yes or no. I am going to ask</p> <p>7 one more question.</p> <p>8 MR. SELLS: Listen, listen, Ms.</p> <p>9 Phillips needs a break. We have been</p> <p>10 going for over an hour. Let's take a</p> <p>11 break. Thank you.</p> <p>12 MR. TAUSTER: We're not taking</p> <p>13 more than two minutes. We're trying</p> <p>14 to move this along --</p> <p>15 MR. SELLS: We are going to take</p> <p>16 a ten-minute break.</p> <p>17 MR. TAUSTER: We'll take a</p> <p>18 five-minute break.</p> <p>19 MR. SELLS: Ten minutes. Ten</p> <p>20 minutes.</p> <p>21 MR. TAUSTER: Derek, no, Derek,</p> <p>22 five minutes, okay, if we are wrapping</p> <p>23 this at 5:30, let's take five minutes.</p> <p>24 Why don't you let us finish --</p> <p>25 MR. SELLS: We're coming back</p> | <p style="text-align: right;">Page 229</p> <p>1 MARJORIE PHILLIPS</p> <p>2 officially. I called them out. And then</p> <p>3 they retaliated. One goes along with the</p> <p>4 other. It doesn't end with the</p> <p>5 discrimination. They retaliated. I</p> <p>6 can't separate the two.</p> <p>7 Q. I want to scroll up to</p> <p>8 paragraph 36 of the complaint regarding</p> <p>9 the move of your work station. So you</p> <p>10 allege that this move inconvenienced you,</p> <p>11 correct?</p> <p>12 A. Yes. Yes.</p> <p>13 Q. How did this move inconvenience</p> <p>14 you?</p> <p>15 A. It separated me from everyone.</p> <p>16 In the space where I was located, in that</p> <p>17 same building, on another floor, a couple</p> <p>18 of floors up, is my whole, it's dedicated</p> <p>19 to fashion and textile studies. That</p> <p>20 whole floor is dedicated to fashion and</p> <p>21 textile studies. That's the program that</p> <p>22 I assist.</p> <p>23 And so I was right there. I am</p> <p>24 right there. And then going in that</p> <p>25 building makes it convenient for the</p> |

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| <p style="text-align: right;">Page 230</p> <p>1 MARJORIE PHILLIPS</p> <p>2 faculty, for the chairperson, for the</p> <p>3 students to, you know, as an</p> <p>4 administrator, you're more the go-to</p> <p>5 person than even the chairperson. More</p> <p>6 the go-to person than even the dean. I</p> <p>7 am the person who the faculty called</p> <p>8 upon. I am the person who the students</p> <p>9 called upon.</p> <p>10 So to remove me from that space</p> <p>11 and put me in a place where no one even</p> <p>12 really knows where I am at. The students</p> <p>13 don't even know where I am at. And when</p> <p>14 the students need something, they have to</p> <p>15 rely upon e-mails. Some of the students</p> <p>16 in the past, since this has happened, and</p> <p>17 all of this disruption has happened, they</p> <p>18 don't even know who I am. They have</p> <p>19 never seen me. They don't even know who</p> <p>20 I am.</p> <p>21 So it disrupted, not just</p> <p>22 Marjorie Phillips, it disrupted my</p> <p>23 department. It disrupted my department.</p> <p>24 Because when -- another reason, when</p> <p>25 faculty has an issue, questions,</p> | <p style="text-align: right;">Page 232</p> <p>1 MARJORIE PHILLIPS</p> <p>2 an e-mail. They will call me.</p> <p>3 Like I said, some of the</p> <p>4 students over the past couple of years,</p> <p>5 they don't even know who I am. They have</p> <p>6 never even seen me.</p> <p>7 Q. The last year they wouldn't</p> <p>8 have had any occasion to see you anyway,</p> <p>9 correct?</p> <p>10 A. Since this happened, correct.</p> <p>11 Q. But you were moved in November</p> <p>12 of 2019, correct?</p> <p>13 A. Correct.</p> <p>14 Q. So how long were you in this</p> <p>15 different location before FIT went fully</p> <p>16 remote?</p> <p>17 A. For a few months. For a few</p> <p>18 months.</p> <p>19 Q. And now, in terms of</p> <p>20 inconvenience, did this increase your</p> <p>21 commuting expenses or anything of that</p> <p>22 sort in any material way?</p> <p>23 A. No.</p> <p>24 Q. Now, when you allege that FIT</p> <p>25 moved your work space, did they take any</p> |
| <p style="text-align: right;">Page 231</p> <p>1 MARJORIE PHILLIPS</p> <p>2 whatever, something that they need, would</p> <p>3 like to discuss, they are there. They</p> <p>4 are adjuncts. They are only there for a</p> <p>5 short amount of time. They are not going</p> <p>6 to walk a block away to have a</p> <p>7 conversation with Marjorie when she used</p> <p>8 to be in the previous space right</p> <p>9 downstairs. Take the elevator right</p> <p>10 downstairs. But now, she's in, some of</p> <p>11 them, as I said, don't even know where I</p> <p>12 am, so that's number one.</p> <p>13 And then given the choice</p> <p>14 between, okay, I'll walk down there, no,</p> <p>15 I'll call her. I'll send her an e-mail.</p> <p>16 So I am so isolated from my own</p> <p>17 department that I don't get to interact</p> <p>18 with my department anymore. On occasion</p> <p>19 somebody may come over. But it disrupted</p> <p>20 my department. It's not just Marjorie</p> <p>21 Phillips. I represent that department.</p> <p>22 I am the glue of that department. And I</p> <p>23 have been removed from this space where</p> <p>24 my department is. And nobody is going to</p> <p>25 try to find me. They will just send me</p> | <p style="text-align: right;">Page 233</p> <p>1 MARJORIE PHILLIPS</p> <p>2 steps to try and make that move easier</p> <p>3 for you in any way?</p> <p>4 A. No. No, they did not.</p> <p>5 Q. Okay.</p> <p>6 MR. TAUSTER: Craig, can you</p> <p>7 throw up FIT 23?</p> <p>8 MR. JONES: Okay. Exhibit 12</p> <p>9 has been marked. It's coming up now.</p> <p>10 (Exhibit 12, e-mail chain, first</p> <p>11 e-mail from Cynthia Glass, was so</p> <p>12 marked for identification, as of this</p> <p>13 date.)</p> <p>14 MR. TAUSTER: All right. Thank</p> <p>15 you, Craig.</p> <p>16 Q. So Ms. Phillips, I want you to</p> <p>17 first read this -- you know what, take a</p> <p>18 moment, read this whole e-mail chain and</p> <p>19 then we'll discuss it.</p> <p>20 A. Okay.</p> <p>21 MR. TAUSTER: Craig, why don't</p> <p>22 you give Ms. Phillips control so she</p> <p>23 can scroll.</p> <p>24 MR. JONES: Ms. Phillips, if you</p> <p>25 click on the screen. There you go.</p> |

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| <p style="text-align: right;">Page 234</p> <p>1 MARJORIE PHILLIPS 2 (Witness reviews document.) 3 Q. Ms. Phillips, you produced this 4 e-mail, but it looks like the e-mail all 5 the way at the top is the first e-mail 6 and then it goes in chronological order 7 from there. 8 A. Okay. 9 Q. This first e-mail, this is from 10 Cynthia Glass, FIT's vice president for 11 human resource management and labor 12 relations, correct? 13 A. Yes. 14 Q. Did you speak with Ms. Glass 15 about the office move? 16 A. Verbally, no. 17 Q. Now, Ms. Glass says that she 18 understands that you have concerns 19 regarding the designated space and that 20 you feel the work space suggests that 21 it's more for the performance of 22 reception duties, is that correct? 23 A. Yes. 24 Q. And that's what you allege in 25 this action, correct?</p> | <p style="text-align: right;">Page 236</p> <p>1 MARJORIE PHILLIPS 2 Dr. Glass. "I appreciate the effort 3 extended and look forward to a 4 finalization of the matter." 5 Is that what you state in that 6 e-mail? 7 A. I did. 8 Q. Is it fair to say that FIT at 9 least took some steps to try to make this 10 move convenient and less burdensome for 11 you? 12 A. No. No, it's not. 13 Q. Why not? 14 A. Because I objected to the move. 15 I told Mary Davis that I objected to this 16 move. I objected to being thrown away 17 and popped into this inferior space all 18 together. I was bullied by Mary Davis 19 and Cynthia Glass to go into this space 20 against my will. What do you do when 21 you're bullied and you have no choice. 22 These are your two choices. You either 23 do it or you quit. Those were the only 24 two choices that I had. You either do 25 what they ask for you to do or you quit.</p> |
| <p style="text-align: right;">Page 235</p> <p>1 MARJORIE PHILLIPS 2 A. Yes. 3 Q. And so now Ms. Glass further 4 alleges, not alleges, withdrawn. 5 Ms. Glass then says that they 6 visited the space and determined that 7 placing you at the work station located 8 behind one station over away from the 9 entrance to the space would eliminate 10 your concern. 11 So did FIT move you to that 12 work space that Ms. Glass is referring to 13 there? 14 A. Yes. 15 Q. And then from there, Ms. Glass 16 says that your computer will be moved to 17 this new location and will be ready for 18 your arrival on Monday; is that correct? 19 A. Yes. 20 Q. And was your computer at the 21 location when you arrived on Monday? 22 A. Yes. 23 Q. And so now I just want to 24 scroll to the end, your e-mail back to 25 Dr. Glass. I don't know why I called her</p> | <p style="text-align: right;">Page 237</p> <p>1 MARJORIE PHILLIPS 2 I wasn't going to quit. 3 And the way that I wrote the 4 last e-mail, I appreciate the effort 5 extended. You've got to be a team player 6 and look forward to a finalization, 7 because to me, that wasn't -- these 8 e-mails was not the final. It was not 9 final to me. I objected being thrown 10 into that space. 11 And Mary Davis and Cynthia 12 Glass bullied me, Marjorie Phillips, to 13 be in that space. They gave me no 14 choice, even though I objected over and 15 over and over. I told Mary Davis that I 16 felt like I was being punished because I 17 made this Affirmative Action complaint 18 against her. She said nothing. She 19 didn't say I agree. I don't agree. 20 You're right. You're wrong. She said 21 nothing. 22 I was bullied into going into 23 that space. I had no choice. I mean in 24 the work world, what are you going to do? 25 Two choices. You either do it or you</p> |

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| <p style="text-align: right;">Page 238</p> <p>1 MARJORIE PHILLIPS</p> <p>2 quit. I wasn't going to quit.</p> <p>3 So, no, FIT was not being so</p> <p>4 gracious and generous and wonderful to</p> <p>5 Marjorie Phillips, no, they were not.</p> <p>6 They were not.</p> <p>7 Q. Ms. Phillips, that's not the</p> <p>8 question I asked you. I asked you</p> <p>9 specifically with the move of your work</p> <p>10 station, did FIT take any steps, again</p> <p>11 specifically with respect to the move of</p> <p>12 your work station, to make moving your</p> <p>13 work station a bit less burdensome on</p> <p>14 you.</p> <p>15 A. No, they did not. I answered,</p> <p>16 no. No. The answer is no.</p> <p>17 MR. SELLS: And that wasn't the</p> <p>18 question. Just for the record, David,</p> <p>19 that wasn't the question you asked.</p> <p>20 MR. TAUSTER: Okay. Well, then</p> <p>21 I am asking the question right now.</p> <p>22 MR. SELLS: No, no.</p> <p>23 MR. TAUSTER: No, I am.</p> <p>24 Dawn, can you please read back</p> <p>25 the question.</p> | <p style="text-align: right;">Page 240</p> <p>1 MARJORIE PHILLIPS</p> <p>2 very possible that we may not have been</p> <p>3 here today.</p> <p>4 She handled it poorly. And</p> <p>5 then it went from her up the chain. So</p> <p>6 she wasn't trained properly. She didn't</p> <p>7 get the proper training. She came in</p> <p>8 with, you know, with no knowledge, or</p> <p>9 maybe she didn't care. I am just going</p> <p>10 to assume that she didn't have knowledge</p> <p>11 of how to deal with a situation like</p> <p>12 this. And then she didn't care enough to</p> <p>13 try and find out. Maybe she didn't</p> <p>14 understand. She didn't even care enough</p> <p>15 to try to find out. She didn't even care</p> <p>16 enough to pretend to appear like she was</p> <p>17 trying to find out.</p> <p>18 I think she was ill equipped to</p> <p>19 handle this entire situation. She</p> <p>20 bumbled the whole thing. And because of</p> <p>21 Mary Davis, we're all here today. It</p> <p>22 didn't have to come to this. Remember,</p> <p>23 now, I went to her first, before I went</p> <p>24 to Affirmative Action, I went to Mary. I</p> <p>25 always went to Mary first. You know,</p> |
| <p style="text-align: right;">Page 239</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. SELLS: Dawn, can you read</p> <p>3 back the last two questions.</p> <p>4 (Record read.)</p> <p>5 Q. Let's move on to paragraph 68</p> <p>6 of the complaint. So take a moment to</p> <p>7 read this allegation for me.</p> <p>8 (Witness reviews document.)</p> <p>9 A. I am going to read it one more</p> <p>10 time.</p> <p>11 (Witness reviews document.)</p> <p>12 A. Okay, I think I understand what</p> <p>13 I am reading.</p> <p>14 Q. So what management employees</p> <p>15 are you referring to in this paragraph</p> <p>16 68?</p> <p>17 A. If I am understanding it</p> <p>18 correctly, what it is saying is that Mary</p> <p>19 Davis was not properly equipped as a</p> <p>20 manager, as a supervisor to handle this</p> <p>21 situation. That she handled it poorly.</p> <p>22 Mary Davis is probably the reason we are</p> <p>23 here today. If Mary Davis had handled</p> <p>24 this entire situation different, and I</p> <p>25 mean each thing that we discussed, it's</p> | <p style="text-align: right;">Page 241</p> <p>1 MARJORIE PHILLIPS</p> <p>2 there were steps. She created this mess.</p> <p>3 She created discrimination, retaliation.</p> <p>4 She created this mess. And didn't try to</p> <p>5 figure out how she could do anything.</p> <p>6 She didn't care.</p> <p>7 I mean everybody doesn't know</p> <p>8 what to do. You ask questions. You ask</p> <p>9 around. You ask your colleagues. You</p> <p>10 inquire. She created this mess. If I</p> <p>11 understand that correctly, that's what I</p> <p>12 mean. Discrimination, retaliation.</p> <p>13 Q. Circling back, I understand</p> <p>14 you're asserting the claim against Dean</p> <p>15 Davis. Are there any other management</p> <p>16 employees who you believe -- who you are</p> <p>17 referring to in this first sentence of</p> <p>18 paragraph 68 who, the management</p> <p>19 employees who perpetuated the hostile</p> <p>20 work environment and discrimination.</p> <p>21 Which management employees are you</p> <p>22 referring to there?</p> <p>23 A. Mainly, primarily, first and</p> <p>24 last, Mary Davis. And then after Mary</p> <p>25 Davis, Jack Oliva. That was her boss,</p> |

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| <p style="text-align: right;">Page 242</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Jack Oliva, vice president of academic</p> <p>3 affairs. He just co-signed everything</p> <p>4 that she did. He was her boss. He</p> <p>5 co-signed everything that she did. He</p> <p>6 said make it go away. He said Umilta</p> <p>7 couldn't be objective. At no point did</p> <p>8 either -- either they didn't care. I</p> <p>9 think maybe that was more it. I don't</p> <p>10 know. I don't know. I don't know. They</p> <p>11 did a terrible job at handling this</p> <p>12 entire situation. They handled it all</p> <p>13 wrong.</p> <p>14 Q. When did Jack Oliva say that</p> <p>15 Umilta couldn't be objective?</p> <p>16 A. I don't know. All I know is</p> <p>17 that maybe -- I wasn't there, you know, I</p> <p>18 am just hearing this. But Umilta's name</p> <p>19 came up in relationship to the</p> <p>20 investigation. And I am guessing, all I</p> <p>21 know is that's what he said. And Isolina</p> <p>22 was there when he said it. He said</p> <p>23 Umilta could not be objective. I told</p> <p>24 Umilta.</p> <p>25 Q. So this is Isolina told him</p> | <p style="text-align: right;">Page 244</p> <p>1 MARJORIE PHILLIPS</p> <p>2 with my supervisor. I went to</p> <p>3 Affirmative Action. I went to HR. I</p> <p>4 spoke with everyone that I needed to</p> <p>5 speak with. I did everything that I was</p> <p>6 expected to do in the order that I was</p> <p>7 expected to do it. I didn't start out</p> <p>8 by, you know, going to the police</p> <p>9 department before I spoke to Mary. I did</p> <p>10 everything that I believe what was</p> <p>11 expected of me. I don't believe I did</p> <p>12 anything wrong. I made them all aware in</p> <p>13 the order that it should have happened.</p> <p>14 Like I said, I think it could</p> <p>15 have stopped at Mary Davis. I think it</p> <p>16 could have stopped there, if she had</p> <p>17 handled it differently.</p> <p>18 Q. Do you believe Jack Oliva</p> <p>19 engaged in any discriminatory conduct</p> <p>20 towards you?</p> <p>21 A. I do. I do. I believe -- yes,</p> <p>22 I do.</p> <p>23 Q. What do you believe he did?</p> <p>24 A. He took Mary's side. Maybe</p> <p>25 that's not, you know, maybe that's what</p> |
| <p style="text-align: right;">Page 243</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that you said this?</p> <p>3 A. No.</p> <p>4 Q. Sorry, sorry, sorry.</p> <p>5 Withdrawn.</p> <p>6 Isolina told you that Jack</p> <p>7 Oliva said that Umilta couldn't be</p> <p>8 objective?</p> <p>9 A. Correct.</p> <p>10 Q. But you don't know when?</p> <p>11 A. When, no. Exactly, no. I</p> <p>12 wasn't there.</p> <p>13 Q. Did you ever speak with Jack</p> <p>14 Oliva about the allegations in your</p> <p>15 complaint?</p> <p>16 A. No.</p> <p>17 Q. Other than Mary Davis and Jack</p> <p>18 Oliva, are you referring to any other</p> <p>19 management employees who perpetuated the</p> <p>20 hostile work environment and</p> <p>21 discrimination?</p> <p>22 A. I think it's the entire</p> <p>23 institution. It's all of them. I spoke</p> <p>24 with everyone. I went up the chain. And</p> <p>25 I did it in the proper way. I started</p> | <p style="text-align: right;">Page 245</p> <p>1 MARJORIE PHILLIPS</p> <p>2 he's supposed to do, maybe that's what</p> <p>3 you think. I don't think anyone was</p> <p>4 being fair. I can't name one person --</p> <p>5 no, there is one. Isolina. Outside of</p> <p>6 my union representative, and her hands</p> <p>7 were tied, I cannot say that anyone was</p> <p>8 being fair to me.</p> <p>9 Q. Now, the second sentence of</p> <p>10 paragraph 68, I'm just going to ask the</p> <p>11 question, do you have any firsthand</p> <p>12 knowledge of the training that FIT</p> <p>13 supervisors received regarding</p> <p>14 discrimination and harassment?</p> <p>15 A. We are still talking about that</p> <p>16 same number 68, right?</p> <p>17 Q. Yes, 68, the second sentence</p> <p>18 now.</p> <p>19 A. Kinda sorta, but not</p> <p>20 specifically. My understanding -- Mary</p> <p>21 Davis, she wasn't new, but compared to</p> <p>22 most of the other employees in -- I was</p> <p>23 there when she was hired. And she</p> <p>24 probably was the newest, except for some</p> <p>25 of the administrators. So I believe in</p> |

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| <p style="text-align: right;">Page 246</p> <p>1 MARJORIE PHILLIPS</p> <p>2 the first five years, I could be wrong,</p> <p>3 it could be three years, I don't know,</p> <p>4 they send out sort of like an evaluation</p> <p>5 on all new administrators who work -- so</p> <p>6 if you work with this particular</p> <p>7 administrator, you get to weigh in on</p> <p>8 this evaluation. I don't believe it's</p> <p>9 called an evaluation, but that's what it</p> <p>10 is.</p> <p>11 And so, you know, you're asked</p> <p>12 like a series of questions. And it</p> <p>13 really is addressed to, or rather the</p> <p>14 people who complete it are people who</p> <p>15 interact and actually have a relationship</p> <p>16 with the person, for example, Mary Davis.</p> <p>17 So if you get it and you have a</p> <p>18 relationship with Mary Davis, then you're</p> <p>19 not going to fill it out.</p> <p>20 My understanding was that Mary</p> <p>21 Davis, for a while, in the beginning,</p> <p>22 wasn't doing very well. Wasn't getting</p> <p>23 very good evaluations. And that she was</p> <p>24 asked to get some managerial training,</p> <p>25 that the college arranged for her to get</p> | <p style="text-align: right;">Page 248</p> <p>1 MARJORIE PHILLIPS</p> <p>2 asked.</p> <p>3 Q. Did you retain Midwin Charles</p> <p>4 before you filed your EEOC charge?</p> <p>5 MR. SELLS: Objection.</p> <p>6 Don't answer.</p> <p>7 MR. TAUSTER: Again, this is a</p> <p>8 simple yes or no question. I am not</p> <p>9 asking --</p> <p>10 MR. SELLS: No, it's not.</p> <p>11 MR. TAUSTER: Yes, it is.</p> <p>12 MR. SELLS: No, it's not. The</p> <p>13 very act of retention involves</p> <p>14 attorney/client communication, David.</p> <p>15 So no, she's not answering the</p> <p>16 question. Take it up. Take it up.</p> <p>17 MR. TAUSTER: Okay.</p> <p>18 Dawn, I am going to ask you to</p> <p>19 flag that line in the transcript. We</p> <p>20 are going to probably have to come</p> <p>21 back around to that one.</p> <p>22 (Transcript marked.)</p> <p>23 MR. TAUSTER: Craig, can you</p> <p>24 throw up FIT Exhibit 19, please.</p> <p>25 (Exhibit 13, Letter, was so</p> |
| <p style="text-align: right;">Page 247</p> <p>1 MARJORIE PHILLIPS</p> <p>2 some managerial training.</p> <p>3 Q. Do you know if she got that</p> <p>4 training?</p> <p>5 A. I can't say with all certainty.</p> <p>6 It would be a guess.</p> <p>7 Q. This can be a tiptoe area, but</p> <p>8 a couple of questions I am trying to</p> <p>9 flesh out here. And I do not want you to</p> <p>10 get into the sum and substance with</p> <p>11 discussions, but I am trying to get a</p> <p>12 timeline of events here.</p> <p>13 When did you first contact</p> <p>14 Midwin Charles about this case?</p> <p>15 MR. SELLS: Objection.</p> <p>16 Q. Again, not asking sum and</p> <p>17 substance. I am just asking the first</p> <p>18 time you contacted her.</p> <p>19 MR. SELLS: Objection. You're</p> <p>20 getting into communications. And it's</p> <p>21 not, that's not appropriate.</p> <p>22 MR. TAUSTER: I am not asking</p> <p>23 for privileged matter, I am asking</p> <p>24 when she first retained an attorney.</p> <p>25 MR. SELLS: That's not what you</p> | <p style="text-align: right;">Page 249</p> <p>1 MARJORIE PHILLIPS</p> <p>2 marked for identification, as of this</p> <p>3 date.)</p> <p>4 MR. JONES: Exhibit 13 has been</p> <p>5 introduced.</p> <p>6 MR. TAUSTER: Give Ms. Phillips</p> <p>7 control of it. I want her to review</p> <p>8 the letter and let me know when you're</p> <p>9 done with that.</p> <p>10 MR. JONES: Ms. Phillips, if you</p> <p>11 click on the screen, you will take</p> <p>12 control.</p> <p>13 MR. SELLS: Hold on for a</p> <p>14 second. I object to this letter. I</p> <p>15 object. We'll have to take it up.</p> <p>16 This was, this was for settlement</p> <p>17 purposes only. It's a confidential</p> <p>18 document. It's not allowed to be used</p> <p>19 for any other purpose. So I object to</p> <p>20 its use and you can take it up.</p> <p>21 Ms. Phillips, do not answer any</p> <p>22 questions about this letter.</p> <p>23 MR. DRANOFF: If I can just</p> <p>24 comment on that.</p> <p>25 MR. TAUSTER: Where does this</p> |

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| <p style="text-align: right;">Page 250</p> <p>1 MARJORIE PHILLIPS</p> <p>2 say it's an FRE 408 letter?</p> <p>3 MR. SELLS: It's contained</p> <p>4 within the language. It's for</p> <p>5 settlement purposes.</p> <p>6 MR. TAUSTER: Where is it --</p> <p>7 MR. SELLS: Oh, okay, you want</p> <p>8 to go to the second page, David? How</p> <p>9 about we look at the second page. Oh,</p> <p>10 a settlement amount of 150,000. So</p> <p>11 we're not answering any questions</p> <p>12 about this letter.</p> <p>13 MR. TAUSTER: No, she's going to</p> <p>14 answer one question though.</p> <p>15 MR. SELLS: No.</p> <p>16 MR. TAUSTER: I am allowed to</p> <p>17 ask one question here.</p> <p>18 MR. SELLS: Take it up. Take it</p> <p>19 up.</p> <p>20 Ms. Phillips, do not answer the</p> <p>21 questions --</p> <p>22 MR. DRANOFF: Can I just make</p> <p>23 one statement?</p> <p>24 MR. SELLS: -- about this</p> <p>25 letter.</p> | <p style="text-align: right;">Page 252</p> <p>1 MARJORIE PHILLIPS</p> <p>2 document that was written by her</p> <p>3 attorney at the time.</p> <p>4 MR. DRANOFF: Addressed to third</p> <p>5 parties. No privilege can possibly</p> <p>6 apply to this letter. It was sent to</p> <p>7 third parties, so there is no</p> <p>8 privilege there. And, again, as far</p> <p>9 as any discussion of settlement, that</p> <p>10 certainly would be a legitimate claim,</p> <p>11 perhaps, at trial, but not now during</p> <p>12 a deposition.</p> <p>13 MR. SELLS: I appreciate your</p> <p>14 perspective. We are not answering any</p> <p>15 questions. If you want to --</p> <p>16 MR. DRANOFF: Maybe we can all</p> <p>17 take a fresh look at it and talk about</p> <p>18 it tomorrow.</p> <p>19 MR. TAUSTER: Mark that line.</p> <p>20 MR. DRANOFF: I just wanted to</p> <p>21 put my position in front of you.</p> <p>22 MR. SELLS: No worries.</p> <p>23 MR. DRANOFF: All right.</p> <p>24 (Transcript marked.)</p> <p>25 Q. Prior to October 31st, 2019,</p> |
| <p style="text-align: right;">Page 251</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. DRANOFF: If you're talking</p> <p>3 about settlement, that issue you're</p> <p>4 raising, Derek, would pertain to a</p> <p>5 trial objection. Certainly the</p> <p>6 content of a letter is fair game in</p> <p>7 discovery. You're not at trial right</p> <p>8 now.</p> <p>9 MR. SELLS: I am not letting her</p> <p>10 answer any questions about --</p> <p>11 MR. DRANOFF: Maybe we can</p> <p>12 resurrect --</p> <p>13 MR. SELLS: I am not going --</p> <p>14 we're not waiving any privilege, okay?</p> <p>15 MR. DRANOFF: It's not a</p> <p>16 privilege.</p> <p>17 MR. SELLS: No, no.</p> <p>18 MR. DRANOFF: There is no</p> <p>19 privilege. The letter is in front of</p> <p>20 us.</p> <p>21 MR. SELLS: It's a confidential</p> <p>22 document.</p> <p>23 MR. DRANOFF: It's directed to</p> <p>24 third parties.</p> <p>25 MR. SELLS: It's a confidential</p> | <p style="text-align: right;">Page 253</p> <p>1 MARJORIE PHILLIPS</p> <p>2 did you have anyone reach out to FIT to</p> <p>3 assert any claim of discrimination?</p> <p>4 MR. SELLS: I am not following</p> <p>5 you.</p> <p>6 MR. TAUSTER: You're not</p> <p>7 answering the question, she's</p> <p>8 answering the question.</p> <p>9 MR. SELLS: No, no. Hold on,</p> <p>10 your question is designed to elicit</p> <p>11 attorney/client communications. I am</p> <p>12 just going to ask if you can repeat my</p> <p>13 question, because my objection is it</p> <p>14 elicited, it's designed to elicit</p> <p>15 attorney/client communications, so you</p> <p>16 can just repeat the question.</p> <p>17 (Record read.)</p> <p>18 MR. SELLS: Okay. Yeah, don't</p> <p>19 answer that question.</p> <p>20 Q. Ms. Phillips, did you have any</p> <p>21 non-attorney reach out to FIT prior to</p> <p>22 October 31st, 2019 to assert a claim of</p> <p>23 discrimination?</p> <p>24 A. No, I did not.</p> <p>25 Q. Thank you. Ms. Phillips, are</p> |

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| <p style="text-align: right;">Page 254</p> <p>1 MARJORIE PHILLIPS</p> <p>2 you seeking damages from FIT in this</p> <p>3 lawsuit?</p> <p>4 A. Yes, yes.</p> <p>5 MR. TAUSTER: Give me two</p> <p>6 seconds here.</p> <p>7 Craig, can you load up FIT</p> <p>8 Exhibit 22 for me, please.</p> <p>9 MR. JONES: Exhibit 14.</p> <p>10 (Exhibit 14, Initial</p> <p>11 Disclosures, was so marked for</p> <p>12 identification, as of this date.)</p> <p>13 MR. SELLS: 22.</p> <p>14 MR. JONES: Which will be</p> <p>15 Exhibit 14, has been introduced, and I</p> <p>16 am bringing it up now.</p> <p>17 Q. So Ms. Phillips, how were you</p> <p>18 damaged by FIT?</p> <p>19 MR. SELLS: Other than what</p> <p>20 she's already described?</p> <p>21 MR. TAUSTER: I am asking</p> <p>22 economic damages, Derek.</p> <p>23 MR. SELLS: Okay.</p> <p>24 Q. Did you freeze, Ms. Phillips?</p> <p>25 A. No. I am trying to understand</p> | <p style="text-align: right;">Page 256</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I paid my therapist, I have</p> <p>3 been seeing a therapist for two years, so</p> <p>4 I pay her. I had a physical therapist</p> <p>5 that I pay because physically, sometimes</p> <p>6 mentally things can affect you</p> <p>7 physically. So I had a physical</p> <p>8 therapist. So I put out money for the</p> <p>9 physical therapist. Physical therapist,</p> <p>10 psychiatrist, my lawyer.</p> <p>11 Q. Are the psychiatrist or</p> <p>12 physical therapy expenses, are any of</p> <p>13 those covered by your medical insurance?</p> <p>14 A. Yes.</p> <p>15 Q. Would it be fair to say that</p> <p>16 your claims would be above and beyond</p> <p>17 what is covered by insurance?</p> <p>18 A. Correct, yes.</p> <p>19 Q. Other than the medical or legal</p> <p>20 expenses, do you have any other</p> <p>21 out-of-pocket expenses in connection with</p> <p>22 this lawsuit?</p> <p>23 A. Not that I can think of at this</p> <p>24 moment.</p> <p>25 Q. Now, I am going to jump over</p> |
| <p style="text-align: right;">Page 255</p> <p>1 MARJORIE PHILLIPS</p> <p>2 how the question that you're asking me</p> <p>3 now is different from what I've already</p> <p>4 answered. Could you clarify a little</p> <p>5 more?</p> <p>6 Q. Sure. On Exhibit 14 -- why</p> <p>7 don't you take a look at bullet point C</p> <p>8 there.</p> <p>9 A. Okay.</p> <p>10 Q. Let's walk through each of</p> <p>11 these. What do you allege your</p> <p>12 out-of-pocket expenses from FIT to be in</p> <p>13 this lawsuit?</p> <p>14 A. Out of pocket, I am just going</p> <p>15 to guess and say about, I am guessing,</p> <p>16 \$15,000 maybe.</p> <p>17 Q. What do you attribute that</p> <p>18 \$15,000 to?</p> <p>19 A. My attorney.</p> <p>20 Q. That's a fee payment?</p> <p>21 A. I am paying, yes.</p> <p>22 Q. So other than what you're</p> <p>23 paying your attorney, what other</p> <p>24 out-of-pocket expenses do you have in</p> <p>25 this litigation?</p> | <p style="text-align: right;">Page 257</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to -- so you say "Plaintiff claims back</p> <p>3 pay in lost wages." Can you specify a</p> <p>4 little bit what lost wages you believe</p> <p>5 you incurred in this lawsuit?</p> <p>6 A. Well, I believe that if things</p> <p>7 had gone differently about the upgrade,</p> <p>8 the discussion about the upgrade, the way</p> <p>9 it was moving along positively in the</p> <p>10 right direction, we had agreed upon it.</p> <p>11 We came very close to making it happen,</p> <p>12 until the Affirmative Action case, I</p> <p>13 believe that today I would have had a</p> <p>14 different salary based on my last</p> <p>15 discussion with Mary Davis about an</p> <p>16 upgrade.</p> <p>17 That was the whole point. It's</p> <p>18 like you go to ask for a promotion or a</p> <p>19 raise because you want to make more</p> <p>20 money. And you and your supervisor are</p> <p>21 in agreement about that. And then this</p> <p>22 happens. Changes everything. And then</p> <p>23 there is no movement after that. It's</p> <p>24 off the table.</p> <p>25 So what I thought I was going</p> |

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| <p style="text-align: right;">Page 258</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to be gaining fell off the table. And I</p> <p>3 am right at the place where I started. I</p> <p>4 am still at the place where I started.</p> <p>5 Q. So other than wages that would</p> <p>6 have been attributed to the upgrade, are</p> <p>7 there any other back wages that you</p> <p>8 believe you lost in connection with this</p> <p>9 lawsuit?</p> <p>10 A. Not that I can think of.</p> <p>11 Q. Okay.</p> <p>12 A. I reserve the right, if I think</p> <p>13 of something later on, will I be able to</p> <p>14 introduce that later if I think of</p> <p>15 something? If I think of anything?</p> <p>16 MR. SELLS: Ms. Phillips, you're</p> <p>17 not anticipating any questions right</p> <p>18 now.</p> <p>19 THE WITNESS: Okay. I answered</p> <p>20 it.</p> <p>21 MR. TAUSTER: Also Derek, I am</p> <p>22 going to note obviously that Rule 26</p> <p>23 calls for a computation of damages, so</p> <p>24 we are going to call for supplemental</p> <p>25 initial disclosures that actually</p> | <p style="text-align: right;">Page 260</p> <p>1 MARJORIE PHILLIPS</p> <p>2 are you experiencing?</p> <p>3 A. I have trouble sleeping. I</p> <p>4 have continued to have nightmares. I</p> <p>5 continue to feel subconsciously</p> <p>6 traumatized. I have nightmares. And I</p> <p>7 have problems sleeping.</p> <p>8 Q. Can I ask how does physical</p> <p>9 therapy help you deal with nightmares?</p> <p>10 A. No, the physical therapy was</p> <p>11 because I had a pain in my leg, in my</p> <p>12 thigh area that sort of came out of</p> <p>13 nowhere. I couldn't -- I didn't know --</p> <p>14 like it just came on all of a sudden</p> <p>15 during all of this. And the therapist</p> <p>16 said to me that sometimes mental stress</p> <p>17 can create physical stress and physical</p> <p>18 conditions. Mentally sometimes things</p> <p>19 contribute to physical issues that you're</p> <p>20 having, because it just sort of came out</p> <p>21 of nowhere during that period of time.</p> <p>22 And it got so bad that I had to seek</p> <p>23 physical therapy for it, which I did, for</p> <p>24 a while, for a few months, until I</p> <p>25 couldn't do it anymore.</p> |
| <p style="text-align: right;">Page 259</p> <p>1 MARJORIE PHILLIPS</p> <p>2 quantify the damages rather than just</p> <p>3 saying that the amount will be</p> <p>4 quantified by a jury.</p> <p>5 MR. SELLS: We will. And we</p> <p>6 will have an expert also.</p> <p>7 MR. TAUSTER: Okay.</p> <p>8 Q. Ms. Phillips, you said you're</p> <p>9 in physical therapy in connection with</p> <p>10 this litigation?</p> <p>11 A. I was, yes, until the pandemic.</p> <p>12 Q. So when is the last time you</p> <p>13 went to physical therapy?</p> <p>14 A. Before the pandemic. So that</p> <p>15 would have been, I don't know, before</p> <p>16 March of last year.</p> <p>17 Q. So fair to say you have not</p> <p>18 been in physical therapy since March of</p> <p>19 2020?</p> <p>20 A. Since the pandemic, no, I have</p> <p>21 not.</p> <p>22 Q. Okay. Are you still</p> <p>23 experiencing any physical symptoms?</p> <p>24 A. Yeah. Yes, I am.</p> <p>25 Q. Okay. What physical symptoms</p> | <p style="text-align: right;">Page 261</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. You said a therapist told you</p> <p>3 that this could be physical</p> <p>4 manifestations of emotional distress?</p> <p>5 A. Yes.</p> <p>6 Q. The physical therapist said</p> <p>7 this?</p> <p>8 A. The physical therapist.</p> <p>9 Q. Who referred you to the</p> <p>10 physical therapist?</p> <p>11 A. Who referred me to the physical</p> <p>12 therapist? I think it was one of my</p> <p>13 doctors. I think it was my</p> <p>14 rheumatologist. I have a rheumatologist</p> <p>15 who I talk to about everything as well.</p> <p>16 You know, anything going on in my body,</p> <p>17 because I want him to be aware of what is</p> <p>18 going on in my entire body. So he was</p> <p>19 the one who recommended the physical</p> <p>20 therapist. He gave me the prescription</p> <p>21 for the physical therapist.</p> <p>22 Q. Were you seeing this</p> <p>23 rheumatologist before the incident,</p> <p>24 before -- withdrawn.</p> <p>25 Were you seeing this</p> |

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| <p style="text-align: right;">Page 262</p> <p>1 MARJORIE PHILLIPS</p> <p>2 rheumatologist prior to 2018?</p> <p>3 A. Yes.</p> <p>4 Q. Who is the rheumatologist?</p> <p>5 A. Dr. Tassiulas at Mount Sinai</p> <p>6 Hospital.</p> <p>7 Q. Do you remember the name of the</p> <p>8 physical therapist who told you that</p> <p>9 this, you know, about the physical</p> <p>10 manifestations of emotional distress?</p> <p>11 A. Yeah, her name, I just remember</p> <p>12 because I saw it on the documents,</p> <p>13 Christine DiSimone.</p> <p>14 Q. How many times did you see Ms.</p> <p>15 DiSimone?</p> <p>16 A. They write a prescription for a</p> <p>17 certain amount of times, so you always</p> <p>18 see her according to the prescription.</p> <p>19 So I saw her for one full prescription, I</p> <p>20 think it was six times. And then I put</p> <p>21 in another prescription for another six</p> <p>22 visits. And let's say about 12 times.</p> <p>23 But it was based on the prescription. I</p> <p>24 couldn't go over the prescription, the</p> <p>25 number of times that were outlined in the</p> | <p style="text-align: right;">Page 264</p> <p>1 MARJORIE PHILLIPS</p> <p>2 when I feel that I need it. If I am</p> <p>3 having, you know -- yes, but not every</p> <p>4 single day.</p> <p>5 Q. What sleep aid do you take?</p> <p>6 A. What is it called. It's a</p> <p>7 common name. I don't remember. I could</p> <p>8 get it and look at it. I don't remember</p> <p>9 the name. I just say sleeping pills, but</p> <p>10 I have them.</p> <p>11 Q. Do you experience any side</p> <p>12 effects from those sleeping pills?</p> <p>13 A. No, no, no side effects.</p> <p>14 Q. When did you first start seeing</p> <p>15 Dr. Barnes?</p> <p>16 A. I think it was in August 2019.</p> <p>17 Q. Prior to August 2019, had you</p> <p>18 sought any sort of therapy?</p> <p>19 A. No.</p> <p>20 Q. Why didn't you seek therapy</p> <p>21 after -- withdrawn.</p> <p>22 Why didn't you see a therapist</p> <p>23 until August 2019?</p> <p>24 A. Because I didn't need to. I</p> <p>25 didn't feel that I needed a therapist</p> |
| <p style="text-align: right;">Page 263</p> <p>1 MARJORIE PHILLIPS</p> <p>2 prescription. I would have to keep going</p> <p>3 back.</p> <p>4 Q. Since the pandemic started,</p> <p>5 have you requested a prescription for</p> <p>6 physical therapy?</p> <p>7 A. No, I have not.</p> <p>8 Q. Have you tried to pursue any</p> <p>9 sort of remote physical therapy exercises</p> <p>10 that you can do from home, things like</p> <p>11 that?</p> <p>12 A. No, I have not.</p> <p>13 Q. You mentioned trouble sleeping</p> <p>14 and nightmares. Are you seeing any</p> <p>15 specialists relating to these sleep</p> <p>16 issues?</p> <p>17 A. I just discussed it with my</p> <p>18 therapist.</p> <p>19 Q. Dr. Barnes?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Have you sought a</p> <p>22 prescription for any sort of sleep aid?</p> <p>23 A. Yes.</p> <p>24 Q. Are you taking a sleep aid?</p> <p>25 A. Not every single day, but yes,</p> | <p style="text-align: right;">Page 265</p> <p>1 MARJORIE PHILLIPS</p> <p>2 before August of 2019.</p> <p>3 Q. So what happened in August of</p> <p>4 2019 that prompted you to go see a</p> <p>5 therapist?</p> <p>6 A. I had been going back and</p> <p>7 forth, kind of sharing with my family,</p> <p>8 with Isolina. You know, I am a person of</p> <p>9 faith. I believe in God. And so I had</p> <p>10 been praying over the entire situation.</p> <p>11 Kind of leaving everything pretty much in</p> <p>12 God's hands. Thinking that it would work</p> <p>13 out best that way. Until it got to a</p> <p>14 point where people were suggesting --</p> <p>15 mainly, mainly, Isolina was one of the</p> <p>16 people who suggested that I see a</p> <p>17 therapist because I was talking to her</p> <p>18 about things.</p> <p>19 There is a difference between</p> <p>20 talking to your family, your sister, and</p> <p>21 Isolina is not a therapist. My sister is</p> <p>22 not a therapist. So she suggested that I</p> <p>23 speak to someone who was qualified. And</p> <p>24 I took her advice.</p> <p>25 Q. How did you find Dr. Barnes?</p> |

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| <p style="text-align: right;">Page 266</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. A friend of mine who is a</p> <p>3 doctor suggested Dr. Barnes.</p> <p>4 Q. So I am going to flip back to</p> <p>5 paragraph 31 of the complaint. Just take</p> <p>6 a moment and review that allegation.</p> <p>7 A. Yes, okay.</p> <p>8 Q. So other than seeing</p> <p>9 Dr. Barnes, are you seeing anyone else</p> <p>10 for post-traumatic stress disorder?</p> <p>11 A. No.</p> <p>12 Q. Okay. Are you receiving any</p> <p>13 medication for your emotional distress</p> <p>14 symptoms in this litigation?</p> <p>15 A. Just sleeping pills.</p> <p>16 Q. So no antidepressant, nothing</p> <p>17 of that sort?</p> <p>18 A. No.</p> <p>19 Q. And similarly, you say that you</p> <p>20 suffer from anxiety. Do you receive any</p> <p>21 medication specifically for anxiety?</p> <p>22 A. No, I do not.</p> <p>23 Q. Have your emotional distress</p> <p>24 symptoms prevented you from working in</p> <p>25 any way?</p> | <p style="text-align: right;">Page 268</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Okay. Who is your primary care</p> <p>3 physician?</p> <p>4 A. My primary care physician has</p> <p>5 changed since the pandemic. But at the</p> <p>6 time Dr. Sabrina Gard at Mount Sinai</p> <p>7 Hospital was my primary physician. And</p> <p>8 she left. She moved on. So I have a</p> <p>9 different primary physician who's brand</p> <p>10 new now.</p> <p>11 Q. Sorry to circle back on this,</p> <p>12 but are you still seeing Dr. Barnes?</p> <p>13 A. Barnes, yes.</p> <p>14 Q. Okay. How regularly do you see</p> <p>15 Dr. Barnes?</p> <p>16 A. Once a week.</p> <p>17 Q. Once a week. And have you been</p> <p>18 seeing her once a week since you first</p> <p>19 started seeing her?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Have you missed any</p> <p>22 sessions?</p> <p>23 A. No. Today.</p> <p>24 Q. Fair enough. Okay. So other</p> <p>25 than today, you haven't missed any</p> |
| <p style="text-align: right;">Page 267</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. No. Today.</p> <p>3 Q. I'm sorry, what is that?</p> <p>4 A. Today.</p> <p>5 Q. Let me ask you this, at any</p> <p>6 point did your emotional distress</p> <p>7 symptoms prevent you from working?</p> <p>8 A. After the incident. After the</p> <p>9 incident, when I took the leave.</p> <p>10 Q. When the leave started, why did</p> <p>11 you not promptly go see a therapist?</p> <p>12 A. I was seeing a therapist by the</p> <p>13 time the leave started. I was seeing a</p> <p>14 therapist.</p> <p>15 Q. Fair enough. Fair enough. Did</p> <p>16 you lose any wages or suffer any monetary</p> <p>17 loss during that leave?</p> <p>18 A. I lost some sick days, which is</p> <p>19 money.</p> <p>20 Q. So the leave time was paid</p> <p>21 through leave entitlements?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So other than -- and did</p> <p>24 you have a primary care physician?</p> <p>25 A. Yeah, I did.</p> | <p style="text-align: right;">Page 269</p> <p>1 MARJORIE PHILLIPS</p> <p>2 sessions?</p> <p>3 A. No.</p> <p>4 Q. Okay. Did you ever communicate</p> <p>5 with anybody from FIT's employee</p> <p>6 assistance program?</p> <p>7 A. No. No.</p> <p>8 Q. Did FIT or anyone at FIT ever</p> <p>9 offer to set you up with the employee</p> <p>10 assistance program?</p> <p>11 A. I don't believe so. I mean</p> <p>12 maybe it was offered. Maybe it was</p> <p>13 offered. I don't recall, because I have</p> <p>14 a therapist.</p> <p>15 MR. TAUSTER: Craig, just throw</p> <p>16 up FIT Exhibit 20.</p> <p>17 (Exhibit 15, e-mails, was so</p> <p>18 marked for identification, as of this</p> <p>19 date.)</p> <p>20 MR. JONES: Introduce it or no?</p> <p>21 MR. TAUSTER: Yes, introduce it.</p> <p>22 MR. JONES: Okay. Exhibit 15</p> <p>23 has been introduced. Here you go.</p> <p>24 Q. So Ms. Phillips, I just want to</p> <p>25 refer you to, there is no easy way to</p> |

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| <p style="text-align: right;">Page 270</p> <p>1 MARJORIE PHILLIPS</p> <p>2 straddle the page so --</p> <p>3 MR. JONES: I can do it.</p> <p>4 MR. TAUSTER: Yeah, yeah, so</p> <p>5 essentially -- scroll down to Isolina</p> <p>6 Perez. There we go. I want her to be</p> <p>7 able to read that e-mail.</p> <p>8 MR. JONES: Okay.</p> <p>9 MR. TAUSTER: Good.</p> <p>10 Q. Just take a second to review</p> <p>11 that e-mail, Ms. Phillips, and let me</p> <p>12 know when you're finished.</p> <p>13 (Witness reviews document.)</p> <p>14 A. Okay, I read it.</p> <p>15 Q. Does this refresh your</p> <p>16 recollection as to whether anyone at FIT</p> <p>17 mentioned the employee assistance</p> <p>18 program?</p> <p>19 A. Yes.</p> <p>20 Q. So now this e-mail, this is an</p> <p>21 e-mail from Isolina Perez to your</p> <p>22 personal Gmail account, correct?</p> <p>23 A. Yeah.</p> <p>24 Q. So as of the date of this</p> <p>25 e-mail, May 23rd, 2019, were you seeing</p> | <p style="text-align: right;">Page 272</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. From May to August, no, I was</p> <p>3 not.</p> <p>4 Q. Do you have a Facebook page?</p> <p>5 A. Yes, I do.</p> <p>6 Q. Okay. Are you currently -- are</p> <p>7 you friends with any FIT employees?</p> <p>8 A. No, I am not.</p> <p>9 Q. I know the feeling. Have you</p> <p>10 made any postings on Facebook about your</p> <p>11 job?</p> <p>12 A. No. I mean, in general, yes.</p> <p>13 Not about the incident. And not</p> <p>14 recently. I mean over the years, is that</p> <p>15 your question?</p> <p>16 Q. Yeah, have you made any</p> <p>17 postings on Facebook that would relate to</p> <p>18 your allegations in this lawsuit?</p> <p>19 A. No. No.</p> <p>20 Q. Do you have a LinkedIn account?</p> <p>21 A. No, I do not.</p> <p>22 Q. Okay. Do you have any other</p> <p>23 social media accounts?</p> <p>24 A. Yeah, I have an Instagram</p> <p>25 account.</p> |
| <p style="text-align: right;">Page 271</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Dr. Barnes at that time?</p> <p>3 A. No, I was not. Well, the one</p> <p>4 you were just pointing to was</p> <p>5 November 1st, the last one, which</p> <p>6 suggested the EAP. And then the one</p> <p>7 above it is May 23rd, which is a</p> <p>8 different e-mail.</p> <p>9 Q. No, no, so just so I can see,</p> <p>10 you can see at the top the 11/1/2020,</p> <p>11 that's the date I think that you printed</p> <p>12 this out from --</p> <p>13 A. Oh, okay.</p> <p>14 Q. -- from your e-mail. I'm not</p> <p>15 trying to trip you up or anything of that</p> <p>16 sort. But that's what I understand that</p> <p>17 November 1st date to be, because it's</p> <p>18 also up at the top over here.</p> <p>19 A. Okay.</p> <p>20 Q. So -- sorry, go ahead.</p> <p>21 A. I was going to say I</p> <p>22 acknowledge it, yes.</p> <p>23 Q. So between May 2019 and August</p> <p>24 2019, were you receiving any treatment</p> <p>25 for emotional distress?</p> | <p style="text-align: right;">Page 273</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Do you have any posts on</p> <p>3 Instagram that relate to the allegations</p> <p>4 in this lawsuit?</p> <p>5 A. No.</p> <p>6 Q. What is your name on Instagram?</p> <p>7 A. Marjie, Marjie Phillips, I</p> <p>8 believe.</p> <p>9 Q. Marjorie Phillips?</p> <p>10 A. Marjie.</p> <p>11 Q. Marjie, can you spell that?</p> <p>12 A. M-a-r-j-i-e.</p> <p>13 Q. And Marjie Phillips, one word?</p> <p>14 A. No, two words.</p> <p>15 Q. Is it a private account or</p> <p>16 publicly accessible account?</p> <p>17 A. I don't know, I don't know</p> <p>18 enough about it. I don't know.</p> <p>19 Q. Are you active on Instagram?</p> <p>20 A. Active would be like every day,</p> <p>21 every week, no. But I am on there.</p> <p>22 MR. TAUSTER: I am just going to</p> <p>23 request the production of a printout</p> <p>24 of Ms. Phillips' Instagram page.</p> <p>25 Q. Ms. Phillips, and this is</p> |

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| <p style="text-align: right;">Page 274</p> <p>1 MARJORIE PHILLIPS</p> <p>2 actually evident from the exhibit we have</p> <p>3 on the screen, you have a personal e-mail</p> <p>4 address phillipmarj@gmail.com, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Do you have any other personal</p> <p>7 e-mail accounts?</p> <p>8 A. Yes.</p> <p>9 Q. What other personal e-mail</p> <p>10 accounts do you have?</p> <p>11 A. Another personal e-mail</p> <p>12 account. Is that a question that I have</p> <p>13 to answer? Do I have to answer that?</p> <p>14 Q. Yes. I am trying to flush out</p> <p>15 if there are any other documents that we</p> <p>16 need to request from Mr. Sells.</p> <p>17 A. Okay. So my question is do I</p> <p>18 have to answer that question and you're</p> <p>19 saying I have to answer that question, I</p> <p>20 have no choice?</p> <p>21 Q. Yes.</p> <p>22 (Following answer</p> <p>23 Confidential.)</p> <p>24 A. Yes, I do have, I do have</p> <p>25 another e-mail account. The name of it</p> | <p style="text-align: right;">Page 276</p> <p>1 MARJORIE PHILLIPS</p> <p>2 completely like devastated from that. It</p> <p>3 was like a total invasion of privacy.</p> <p>4 And I asked a lot of questions. Legal</p> <p>5 questions about what does that mean. And</p> <p>6 so I felt like it was a complete invasion</p> <p>7 of my privacy. So I set up another</p> <p>8 e-mail account because I wanted to be</p> <p>9 able to communicate with my lawyer</p> <p>10 without FIT looking at my e-mail.</p> <p>11 Q. What do you mean that FIT</p> <p>12 seized your personal e-mail account?</p> <p>13 A. I was told that FIT had access</p> <p>14 to my personal e-mail account. And</p> <p>15 that's what I mean. And they are able to</p> <p>16 look at my personal e-mail account.</p> <p>17 That's what they told me.</p> <p>18 Q. Who told you that FIT has</p> <p>19 access to your personal e-mail account?</p> <p>20 A. Tuttle. Tuttle. Stephen</p> <p>21 Tuttle.</p> <p>22 Q. Did he tell you this verbally</p> <p>23 or in writing?</p> <p>24 A. I think it was both. I think</p> <p>25 it was both. Because I remember</p> |
| <p style="text-align: right;">Page 275</p> <p>1 MARJORIE PHILLIPS</p> <p>2 is sppunlimited.</p> <p>3 MR. SELLS: And, Dawn, can you</p> <p>4 just mark that answer as confidential.</p> <p>5 THE REPORTER: Sure.</p> <p>6 Q. Is that sppunlimited@gmail.com?</p> <p>7 A. Yes.</p> <p>8 (End of Confidential portion.)</p> <p>9 MR. TAUSTER: And go ahead and</p> <p>10 mark that part as well, so we can get</p> <p>11 that cleared up.</p> <p>12 Q. I'm curious, what is the</p> <p>13 purpose of that e-mail account?</p> <p>14 A. The purpose of that e-mail</p> <p>15 account is because I have the right to</p> <p>16 have as many e-mail accounts that I want</p> <p>17 to. That's the first reason. I can do</p> <p>18 whatever I want to do with my life.</p> <p>19 That's the first reason.</p> <p>20 And the second reason is</p> <p>21 because FIT seized my personal e-mail</p> <p>22 account shortly after this lawsuit and</p> <p>23 they told me that anything that was on my</p> <p>24 personal e-mail account, that they had</p> <p>25 access to. And so I was completely,</p> | <p style="text-align: right;">Page 277</p> <p>1 MARJORIE PHILLIPS</p> <p>2 confirming, asking and confirming this</p> <p>3 with him. And he said that, you know,</p> <p>4 something to the nature of while you're</p> <p>5 at FIT -- I guess, these are Marjorie's</p> <p>6 words. I am not a technological person.</p> <p>7 Something to the extent that FIT</p> <p>8 employees are allowed to put their</p> <p>9 personal e-mail account onto their FIT</p> <p>10 accounts. So I can go to work and have</p> <p>11 Marjorie_Phillips.nyu.edu, which everyone</p> <p>12 has that, but I can also have my personal</p> <p>13 e-mail account, they gave us permission</p> <p>14 to do that, many years ago. They gave</p> <p>15 everyone permission to do that. I guess</p> <p>16 at some jobs maybe you can't look at</p> <p>17 personal e-mails. So it was there. And</p> <p>18 so once all of this began, then I was</p> <p>19 told that they can look at my e-mails if</p> <p>20 they wanted to.</p> <p>21 So whatever I had on that</p> <p>22 e-mail, whatever was there, they could</p> <p>23 see it. They could look at it. And it</p> <p>24 just felt like an invasion of privacy. I</p> <p>25 asked around. I don't know if the</p> |

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| <p style="text-align: right;">Page 278</p> <p>1 MARJORIE PHILLIPS</p> <p>2 explanation that I was given was</p> <p>3 accurate, but that's what I was told.</p> <p>4 Q. Okay. And what you received</p> <p>5 from Mr. Tuttle, was that, for lack of a</p> <p>6 better term, a document preservation</p> <p>7 notice?</p> <p>8 A. Yeah, that sounds, that</p> <p>9 sounds -- yeah, that sounds right.</p> <p>10 Q. And to be clear, I think I know</p> <p>11 what you're talking about, but I am just</p> <p>12 trying to flush it out in my own head.</p> <p>13 So with respect to this other</p> <p>14 e-mail address that you created, have you</p> <p>15 communicated about this lawsuit using</p> <p>16 that e-mail address with anyone other</p> <p>17 than your attorney?</p> <p>18 A. It was set up solely for my</p> <p>19 attorney.</p> <p>20 Q. Okay. Just to the extent that</p> <p>21 you happen to have accidentally sent an</p> <p>22 e-mail from that account to someone else</p> <p>23 that would be relevant to this</p> <p>24 litigation, we would be calling for</p> <p>25 production of, you know, any such</p> | <p style="text-align: right;">Page 280</p> <p>1</p> <p>2 ACKNOWLEDGMENT OF DEPONENT</p> <p>3</p> <p>4 I have read the foregoing transcript</p> <p>5 of my deposition and except for any</p> <p>6 corrections or changes noted on the errata</p> <p>7 sheet, I hereby subscribe to the transcript</p> <p>8 as an accurate record of the statements made</p> <p>9 by me.</p> <p>10</p> <p style="text-align: center;">MARJORIE PHILLIPS</p> <p>11</p> <p>12 SUBSCRIBED AND SWORN before</p> <p>13 and to me this ____ day of _____,</p> <p>14 2021.</p> <p>15</p> <p style="text-align: center;">NOTARY PUBLIC</p> <p>16</p> <p>17 My Commission Expires:</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
| <p style="text-align: right;">Page 279</p> <p>1 MARJORIE PHILLIPS</p> <p>2 non-privileged e-mails from this e-mail</p> <p>3 account.</p> <p>4 MR. TAUSTER: Okay. So we're at</p> <p>5 5:27. I don't think I will have much,</p> <p>6 you know, if I have to go for a little</p> <p>7 bit first thing tomorrow morning, that</p> <p>8 will be about it, but other than that,</p> <p>9 I am pretty much wrapped up here, so</p> <p>10 if we want to break now and go back at</p> <p>11 10 tomorrow, we can go from there.</p> <p>12 MR. SELLS: That's fine. Can</p> <p>13 you just do me a favor and e-mail me</p> <p>14 all of the exhibits that were used</p> <p>15 today?</p> <p>16 (Off the record.)</p> <p>17 (Time noted: 5:39 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 281</p> <p>1</p> <p>2 CERTIFICATION</p> <p>3</p> <p>4 I, DAWN MATERA, a Notary Public for</p> <p>5 and within the State of New York, do hereby</p> <p>6 certify:</p> <p>7 That the witness whose testimony as</p> <p>8 herein set forth, was duly sworn by me; and</p> <p>9 that the within transcript is a true record of</p> <p>10 the testimony given by said witness.</p> <p>11 I further certify that I am not</p> <p>12 related to any of the parties to this action</p> <p>13 by blood or marriage, and that I am in no way</p> <p>14 interested in the outcome of this matter.</p> <p>15 IN WITNESS WHEREOF, I have hereunto</p> <p>16 set my hand this 13th day of September, 2021.</p> <p>17</p> <p>18</p> <p>19</p> <p style="text-align: center;">DAWN MATERA</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

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